

(26,868)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1918.

No. 782.

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GEORGE C. BEIDLER, APPELLANT,

*vs.*

THE UNITED STATES.

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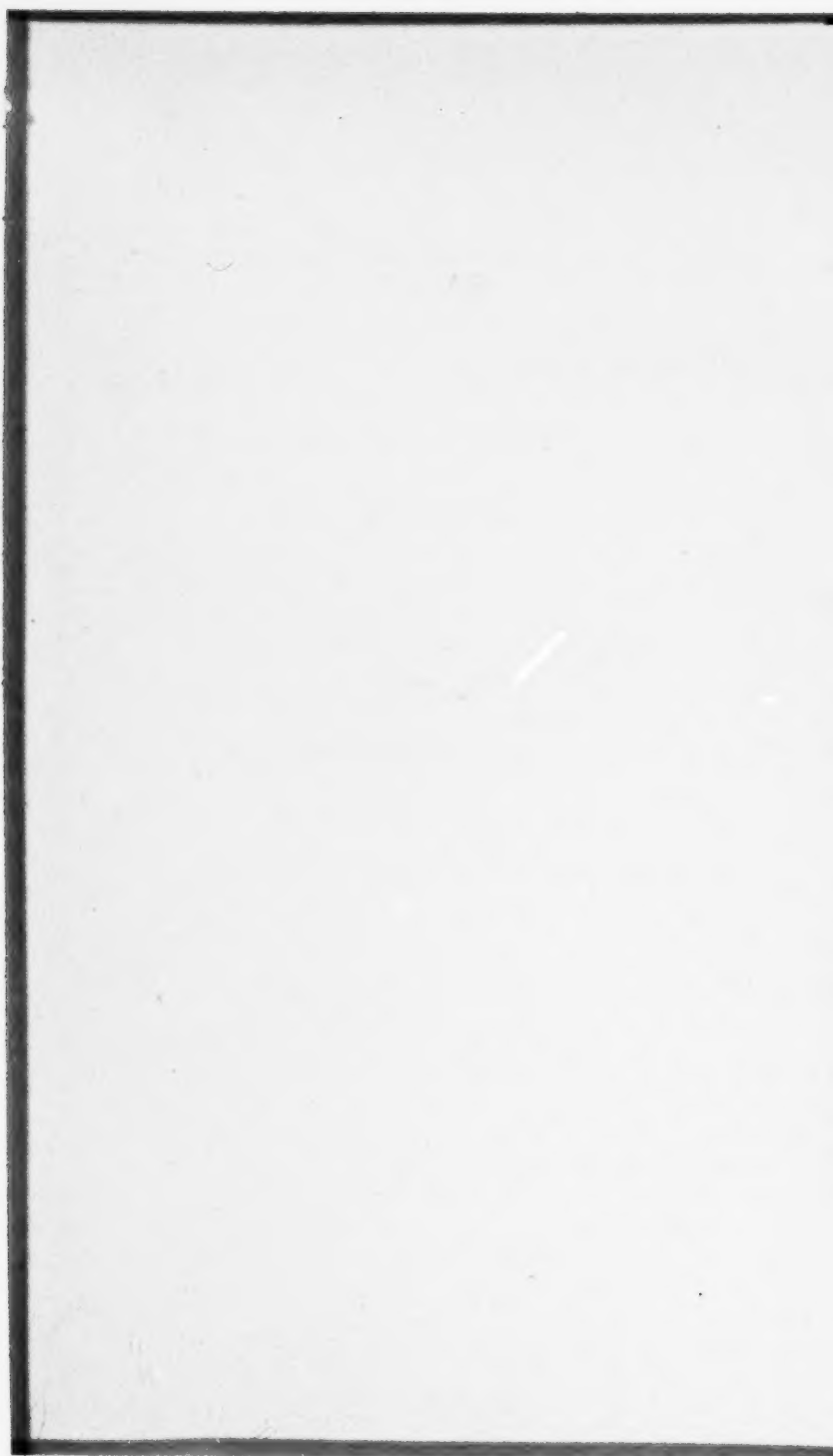
APPEAL FROM THE COURT OF CLAIMS.

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1 In the Court of Claims of the United States.

No. 32767.

GEORGE C. BEIDLER

against

UNITED STATES.

*I. Petition.*

Filed February 14, 1914.

To the Honorable the Judges of the Court of Claims of the United States:

Now comes George C. Beidler, formerly a resident of the city of Oklahoma, in the county of Oklahoma, and State of Oklahoma, but now a resident of Rochester, in the county of Monroe, and State of New York, and citizen of the State of New York and of the United States, and files this petition against the United States; and thereupon, your petitioner complains and says:

First. That your petitioner on or before March 23, 1907, was the first, original, true and sole inventor of new and useful Improvements in Photographing and Developing Apparatus, not known or used by others in this country, before his invention or discovery thereof, and not patented or described in any printed publication in this or any foreign country, before his invention or discovery thereof, or more than two years prior to his application for United States Letters Patent hereinafter mentioned, and not in public use or on sale in this country for more than two years prior to his said application, and not abandoned, and not first patented or caused to be patented by petitioner or his legal representatives or assigns in any foreign country; that so being as aforesaid the first, original, true and sole inventor of said Photographing and Developing Apparatus, your petitioner did, upon his due application for United States Letters Patent therefor, filed March 23, 1907, in the United States Patent Office, obtain Letters Patent for said invention in due form of law, under the seal of the Patent Office in the United States, signed by the Commissioner of Patents bearing date of March 25, 1913, and numbered 1,057,397, and whereby there was granted and secured to your petitioner, his heirs and assigns, for the term of seventeen years from the date of said Letters Patent, the full, sole and exclusive right and liberty of making, using and selling said invention, as set forth in said Letters Patent, throughout the United States and the Territories thereof, to the full end of the term of said Letters Patent, which, or a duly certified copy of which, is now ready, in Court, to be produced and shown unto your Honors.

Second. Your petitioner avers that he is, and at all times past,



has been, the sole and exclusive owner of said invention, and now is, and at all times has been, the sole and exclusive owner of said Letters Patent numbered 1,057,397; that he is the sole and exclusive owner of the claim herein stated; and that no action on the claim herein stated has been had in Congress, or by any of the departments; that your petitioner has, at all times, borne true allegiance to the government of the United States and has not, in any way, voluntarily aided, abetted, or given encouragement to rebellion against the government.

3 Third. That your petitioner is advised by his counsel and believes and therefore avers, that said Letters Patent numbered 1,057,397 is valid and effectual in law to secure to your petitioner the exclusive rights and privileges thereby granted; that so far as your petitioner has been informed and believes, the public generally have acquiesced in your petitioner's rights, under said Letters Patent; that your petitioner is entitled to exclusive use and enjoyment of the said invention, and Letters Patent; that said invention is being manufactured by the Rectigraph Company, a corporation of the State of Oklahoma, under license from your petitioner; and that but for the infringement herein complained of your petitioner would have been, and would now be, in the undisturbed possession, use and enjoyment of the said invention and of the exclusive rights and privileges and in receipt of the profits of the same.

Fourth. That the invention covered and claimed in the said Letters Patent was not discovered or invented by the said George C. Beidler while an employee of the government of the United States during the time of his employment or services by or for the government of the United States, nor is the said George C. Beidler now in the employment or service of the government of the United States.

Fifth. That your petitioner is informed and believes, and therefore avers, that the United States, through its offices and agents, well knowing the premises and the exclusive rights granted as aforesaid, and especially through the officers or officials of its Department of the Interior, its Department of Agriculture, its Department of Justice, its Library of Congress, its Department of War, its Department of the Navy, its Department of Commerce, and its other departments, the names of which your petitioner is not aware or

4 informed but information of which is in possession of the government, which is requested to produce the same, and otherwise, since the 25th day of June, 1910, and before the filing of this petition, without license of your petitioner, or without lawful right, made and constructed, or caused to be made and constructed, and used, or caused to be used, apparatus containing and embodying in use the invention covered and claimed by said Letters Patent number 1,057,397, in violation and infringement of said Letters Patent and of the rights of your petitioner thereunder; that such unlawful and unauthorized use of your petitioner's said patented invention, has resulted in great injury, damage and loss to your petitioner, to wit, as your petitioner is informed and believes, and avers the aggregate sum of One hundred thousand dollars (\$100,000.00) damages, which sum is still due to your petitioner,



no part thereof having been paid, and which sum or such other reasonable compensation for the use by the United States of your petitioner's said patented invention as this Honorable Court may find to be due your petitioner, your petitioner avers he is justly entitled to recover, after allowing all just credits and offsets.

Sixth. And your petitioner further shows unto your Honors that upon learning of the infringement by the United States, well believing that it would cease the same, it notified and warned it to desist therefrom, but that the said United States neglected and refused so to do and continued, and still continues, after such notice, to make, use and vend the apparatus patented and secured to your petitioner as aforesaid.

Seventh. Your petitioner's said claim for compensation for use of said patented invention is not based on the use by the United States of any article, apparatus or method owned, leased, or used by or in the possession of the United States prior to June 25, 1910.

Wherefore your petitioner prays judgment in his favor against the United States for the sum of One hundred thousand dollars (\$100,000.00) and for such other and further relief as to the Court may seem just.

GEORGE C. BEIDLER,  
*Petitioner.*

FRANK S. APPLEMAN,  
*Attorney.*

STATE OF NEW YORK,  
*County of Monroe, City of Rochester, ss:*

George C. Beidler, being duly sworn, according to law, says: that he is the petitioner named in the foregoing petition by him subscribed; that he has read said petition and knows the contents thereof; that the said petition is true of his own knowledge, except as to matters therein stated to be on information and belief, and as to such matters he verily believes it to be true.

GEORGE C. BEIDLER.

Sworn to and subscribed before me this 4th day of February, 1914.

[SEAL.]

CHARLES W. PYATT,  
*Notary Public.*

Commission expires March 30, 1914.



II. *General Traverse.*

Court of Claims.

No. 32767.

GEORGE C. BEIDLER

VS.

THE UNITED STATES.

No demurrer, plea, answer, counterclaim, set-off, claim of damages, demand, or defense in the premises, having been entered on the part of the defendants, a general traverse is entered as provided by Rule 34.

III. *Argument and Submission of Case.*

On January 11, 1918, this case was argued and and submitted on merits by Messrs. Frank S. Applemand and Ernest W. Bradford, for the claimant, and Mr. Henry C. Workman, for the defendants.

7 IV. *Findings of Fact and Conclusion of Law. Entered April 29, 1918.*

This case having been heard by the Court of Claims, the court, upon the evidence, makes the following

*Findings of Fact.*

## I.

On March 23, 1907, the claimant, George C. Beidler, filed an application for United States letters patent for an improvement in photographing and developing apparatus; and on March 25, 1913, there were granted to the claimant upon said application Letters Patent No. 1,057,397, of which the following is a copy:

## United States Patent Office.

George C. Beidler, of Oklahoma, Okla. Photographing and Developing Apparatus. 1,057,397. Specification of Letters Patent. Patented Mar. 25, 1913. Application Filed March 23, 1907. Serial No. 364,015.

To all whom it may concern:

Be it known that I, George C. Beidler, citizen of the United States of America, residing at Oklahoma city, in the county of Okla-



G. C. BEIDLER.  
 PHOTOGRAPHING AND DEVELOPING APPARATUS.  
 APPLICATION FILED MAR. 21, 1907.

1,057,397.

Patented Mar. 25, 1913.

Fig. 1.

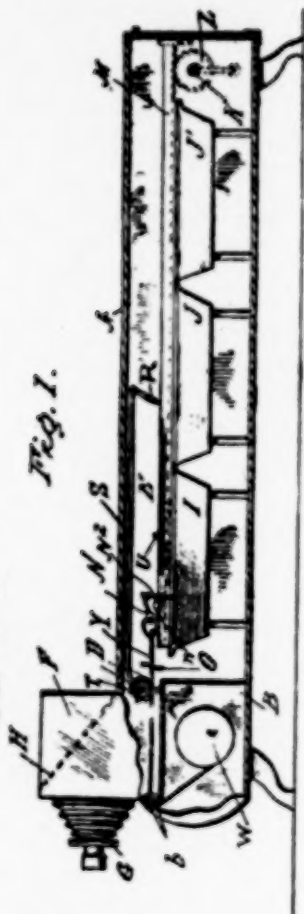
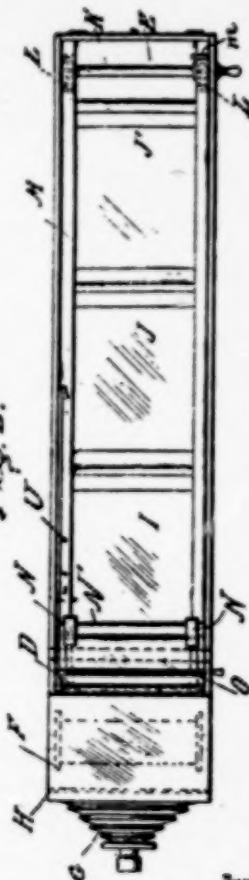


Fig. 2.



Inventor

George C. Beidler

Frank. Appelman,

Attorney

Witness  
 Samuel H. ...  
 Oliver ...

110782-7 } p. 8.  
 Beidler  
 U.S. Pat.



homa and State of Oklahoma, have invented certain new and useful Improvements in Photographing and Developing Apparatus, of which the following is a specification.

This invention relates to printing and developing apparatus and refers more particularly to an apparatus designed primarily for reproducing writings, drawings, pictures, or the like, novel means being also provided to convey the sensitized film through a series of receptacles containing suitable developing and fixing fluids or through suitable baths according to the requirements.

A preferred form of construction of my apparatus will be herein described, but it is to be understood that this particular form is shown only for the purpose of illustrating one embodiment of the invention.

It is an object of this invention to provide an apparatus which will be simple in construction, efficient in practice and economical to manufacture.

With the foregoing and other objects in view, the invention consists in the details of construction and in the arrangement and combination of parts to be hereinafter more fully set forth and claimed.

In describing the invention in detail, reference will be had to the accompanying drawings forming part of this specification wherein like characters denote corresponding parts in the several views in which—

(Here follows diagram marked p. 8.)

Figure 1, is a longitudinal vertical sectional view through the casing with parts in elevation; and Fig. 2, is a plan view of the apparatus with the top of the casing removed.

In these drawings A, denotes a suitable casing supported in any manner desired containing a compartment B, adapted to contain sensitized paper, preferably in roll form. The roll W is suitably mounted to rotate and the paper drawn from the roll is projected through the top of the compartment between the rollers b, and then directed to travel over the top of the said compartment between the rollers D, into the compartment E. There is an exposure chamber F, above the compartments and a suitable camera G, is provided for taking the picture, there being an angularly disposed mirror H, in the exposure chamber for reflecting the image onto the sensitized paper or film heretofore referred to.

The compartment E, is provided with a series of pans or tanks I, J, and J', and these tanks may be multiplied to suit the requirements of practice to contain the several liquids required in fixing and developing the exposed films.

In order to draw the films through the several compartments, I provide a mechanism consisting of a shaft K, having toothed wheels L, which mesh with a rack M, the said rack being suitably guided



10 in the compartment E, and being alternately reciprocated through the rotation of the shaft K, in opposite directions.

When the shaft is turned to the right, the said rack will be projected from the compartment until the inner end thereof is nearly above the shaft K. When the shaft is rotated in the opposite direction, the said rack will, of course, be retracted and thrust into the compartment. It is the purpose of this invention that the said rack shall carry clips N, which are designed to clamp on the edges of the film Y and as the said rack is moved outwardly, the film is carried through the several tanks as indicated. The clips are automatically released and set through the contact with trips within the casing in the path of travel of said clips. The trips just referred to are preferably near the ends of the casing and consist of pins *m* and *n*, projecting preferably transversely of the casing above one side of the rack and as there is a clip N, on each side of the rack, the said clips are moved in unison by reason of the connecting rod N'. From an inspection of the drawing it will be observed that the upper end of the lever N' for operating the clip, comes in contact with the pin *n* when the rack has reached the limit of its forward movement and hence said lever is thrown into engagement with the end of the clip to close the jaws of said clip and the parts will remain in this relation until the rack has traveled to nearly the limit of its outward movement when the upper end of the lever will strike the pin *m*, thus moving the said lever out of engagement with the end of the clip and releasing the clip to permit the discharge of the paper into the receptacle J'. After the paper is cut by the knife O, it is desirable to move the next succeeding film portion a short distance beyond the knife in order that it may be in the path of travel of the clips. To effect this initial movement of the film, I provide a lever R, which is pivoted in the casing and the upper end of the lever carries a pawl S, which projects into engagement with a ratchet wheel T, on the roller D. A pin U, on the rack contacts with the lower end of the lever R, as the rack is reciprocated and the said lever is thereby oscillated to move the pawl and cause the rotation of the said roller D.

In order to sever the prints into appropriate lengths, I provide a cutter O, which may be of any construction for severing the films, the cutter illustrated in the drawings comprising two contacting blades, one of which may be pivoted with relation to the other and it may be provided with an operating handle.

Any suitable means may be provided for drawing the film through the exposing chamber, but I have shown the rollers D, which if suitably rotated would draw the film through the exposing chamber and deliver it to the carriers.

I claim—

1. In a photographing and developing apparatus, a chamber, suitable means for drawing film and delivering it to the chamber, tanks in said chamber, a rack and gear operating mechanism for carrying the film delivered to the chamber, through the tanks, means on the



racks for engaging the film, and means acting on the film drawing means for imparting an initial movement to the film.

2. In a photographing and developing apparatus, a compartment adapted to contain a supply of film, means for drawing the film therefrom, a chamber to which film is delivered by the means for drawing film, a series of tanks, a rack traveling over the tanks,

11 a gear for moving the rack, means on the rack for engaging the film delivered to the chamber to carry said film through the tanks, and means acting on the film drawing means for imparting an initial movement to the film to project it into the path of travel of the film engaging means on the rack.

3. In a photographing and developing apparatus, a series of tanks, a frame movable over the tanks, means on the frame for engaging film, means for operating the film engaging means, film drawing means, a source of film supply from which the film is drawn by the said drawing means, and means operated by the frame to cause the film drawing means to impart initial movement to the film to project it into the path of travel of the film engaging means.

4. In a photographing and developing apparatus, a chamber, means for projecting film into the chamber, a member having reciprocating movement in the chamber, means for operating said member, means on the member for engaging and carrying said film, and a liquid container in the chamber through which the film is drawn by said member.

5. In a photographing and developing apparatus, a chamber, means for projecting film into one end of the chamber, means in the chamber adapted to engage the film, means for reciprocating the film engaging means lengthwise of the chamber and means in the path of the film engaging means for tripping the same.

6. In a photographing and developing apparatus means for containing a supply of film, a chamber, means for delivering film to the chamber from the means for containing the supply of film, receptacles in said chamber for containing fluids, means for cutting the film delivered to the chamber, reciprocating means mounted to move across the receptacle, and means on said reciprocating means for engaging the film delivered to the chamber for carrying said film in the liquid contained by the receptacle.

7. In a machine relating to photography, means for containing a supply of film, a chamber, means for delivering film from the first mentioned means to the said chamber, receptacles in the chamber for containing fluid adapted to act on the coated surface of the film, means for cutting the film delivered to the chamber, and a member mounted to reciprocate in the said chamber for effecting the transfer of the film from one receptacle to another.

8. In a photographing apparatus, the combination of means for holding a supply of film, constructed to protect said film from actinic rays of light and having means for subjecting a portion of film at a time to the action of such rays, film holding and suspending means supported wholly exterior to the liquid and in position to subject the film carried thereby to the action of the liquid, and means for pro-



ducing relative movement of the liquid and said film holding means while the portion of film suspended by the latter is in said liquid.

9. In a machine relating to photography, means for containing a supply of film, a chamber to which film is delivered from the means for containing the supply thereof, means for transferring the film from the containing means to the chamber, receptacles in the chamber to contain fluids, a member mounted to reciprocate in the chamber and operative to transfer film from one receptacle to another, and a rack and pinion for moving the reciprocating member.

12 10. In a machine relating to photography, means for containing a supply of film, a chamber to which film is delivered from the means for containing the supply thereof, means for transferring the film from the containing means to the chamber, receptacles in the chamber to contain fluids, a member horizontally mounted to reciprocate in the chamber, operative to transfer film from one receptacle to another, and a rack and pinion for moving the reciprocating member.

11. In a photographing and developing apparatus, the combination of means for holding a supply of film, constructed to protect said film from actinic rays of light and having means for subjecting a portion of film to the action of such rays, a receptacle containing liquid, film holding and suspending means, a support for the last mentioned means always maintaining the film holding and suspending means exterior to the liquid in the receptacle and in position to subject the film to the action of the liquid in the receptacle, and means for producing relative movement of the film suspended from said holder and said liquid, whereby the suspended film is moved through the liquid in said receptacle.

12. In a photographing apparatus, the combination of means for holding a supply of film constructed to protect said film from actinic rays of light, means for subjecting a portion of the film to the action of such rays, a receptacle containing liquid, film holding and suspending means, a support for the last mentioned means always maintaining the film holding and suspending means exterior of the liquid in the receptacle, said film holding and suspending means including a to and fro moving member for producing relative movement of the film holder and suspending means and said liquid, whereby the suspended film is moved through the liquid in said receptacle.

13. In a photographing and developing apparatus, the combination of means for holding a supply of film constructed to protect said film from actinic rays of light and having means for subjecting portions of the film to the action of such rays, a receptacle for containing liquid, film holding and suspending means, a support for the last mentioned means always maintaining the film holding and suspending means exterior to the fluid in the receptacle, and means for reciprocating said film holding and suspending means across the receptacle and in position to subject the film to the action of the fluid in the receptacle.

14. In a photographing apparatus, the combination of means for holding a supply of film, constructed to protect said film from



actinic rays of light and having means for subjecting a portion of film to the action of such rays, a liquid holder, film holding and suspending means including a to and fro moving member, a support for the latter above liquid in the holder, and means for producing relative movement of said film suspending means and said liquid holder.

15. In a photographing and developing apparatus, the combination of means for holding a supply of film having means for exposing a portion of film to light, receptacles within the casing for containing fluids, means for delivering the film thereto, means for engaging and supporting the delivered film, means for moving the film engaging and supporting means lengthwise of the chamber, and means for cutting the film.

13 16. In a photographic and developing apparatus, the combination of means for holding a supply of film and having means for exposing a portion of film to light, receptacles for containing fluid, means for delivering film thereto, means for engaging and supporting the delivered film, means for moving the film engaging and supporting means lengthwise of the chamber, and means for cutting the film.

17. In a photographing apparatus, the combination of means for holding a supply of film, constructed to protect said film from actinic rays of light and having means for subjecting a portion of film at a time to the action of such rays, a liquid holder, film feeding means situated between said holder and the source of supply of film, and a reciprocating film moving means situated to receive the film coming from said film feeding means so as to carry said film and subject the film to the action of liquid in the liquid holder.

18. In a photographing apparatus, the combination of means for holding a supply of film, constructed to protect said film from actinic rays of light and having means for subjecting a portion of film at a time to the action of such rays, a liquid holder, film feeding means situated between said holder and the source of supply of film, and a reciprocating film clamp situated to receive the film coming from said film feeding means and operative to subject the film to the liquid in the liquid holder.

19. In a photographing and developing apparatus, the combination of means for holding a supply of film constructed to protect said film from actinic rays of light and having means for subjecting a portion of film at a time to the action of such rays, a liquid holder, film feeding means situated between the said holder and the said source of supply of film, a reciprocating film clamp, means for operating the clamp to engage the film, means for operating the clamp to release the film, and means for moving the film clamp with relation to the liquid holder, whereby the film carried thereby is subjected to the action of fluid in the liquid holder.

20. A photographing and developing apparatus having a casing provided with an opening for exposing film to light, containers for liquids within a portion of the casing, means for feeding film after exposure into that portion of the casing having the containers for



liquids, means between the feeding means and containers for gripping film, means for operating the gripping means to cause it to engage a film, means for causing the gripping means to move and draw film from one container of liquid to another, and means to cause the gripping means to release the film.

21. A photographing and developing machine having a casing provided with an opening for exposing sensitized paper, means within a portion of the casing for containing developing liquid, means for containing another liquid, means for feeding the sensitized papers after exposure into that portion of the casing having the containing means and above said containing means, means to grip the papers between the feeding means and the said containing means, means to shear the paper between said feeding means and the gripper to permit the paper to fall into the said containing means, means for causing the gripper to move and draw the paper from one containing means and dispose it over the liquid in another containing means and

for returning said gripping means to its initial position,  
14 means to cause the gripper to release the paper and to permit it to fall flatwise into the liquid, means for returning the gripping mechanism to its initial position, and means for operating the said gripping mechanism to cause it to engage sensitized paper after it is returned to its initial position.

22. A photographing and developing apparatus comprising a casing provided with an opening for exposing sensitized paper, means within a portion of the casing for containing solutions, means for feeding the sensitized paper after exposure into that portion of the casing having the solution containers, means to grip the paper between the feeding means and said solution containers, means to shear the paper between said feeding means and the gripper, means for causing the gripper to move and draw the paper from one container to the other and dispose it over the solution to which it is last drawn, means to cause the gripper to release the paper and permit it to fall flatwise into the solution in the container to which it is last drawn, and means for operating the gripper to engage sensitized paper on its return to its initial position near the means for feeding the sensitized paper.

23. In a photographing and developing apparatus having a casing provided with an opening for exposing film, means in a portion of the casing for containing a solution, means for feeding film after exposure into that portion of the casing having the said means for containing a solution, means for stretching the film over the means for containing the solution, and means for severing the film to permit it to fall into the solution.

24. In a photographing and developing apparatus having a casing provided with an opening for exposing sensitized paper, means within the casing to contain developing solution, means for containing fixing solution, means for feeding the sensitized paper after exposure into that portion of the casing having the means for containing the solution, means associated with the casing for cutting the paper, means for drawing film from one containing means to the



other and for stretching said film over a container while said paper is being cut, to permit said paper to fall into a containing means.

25. A photographing and developing apparatus having a casing provided with an opening for exposing film to light, a solution container in a portion of the casing, means for delivering film to that portion of the casing having the container, means in the casing to grip the film delivered to the casing, and means for operating the gripping means to cause it to move with relation to the container and to carry the film in the solution.

26. In a photographing apparatus, the combination of means for holding a supply of film, constructed to protect said film from actinic rays of light, a container for liquid, film holding and suspending means supported wholly exterior to the liquid, and means for producing relative movement of the liquid and film holding means while the film suspended by the latter is in said liquid.

27. In a photographing apparatus, an inclosing casing adapted to hold a supply of film and having means for exposing portions of said film to light, a receptacle containing liquid, film holding and suspending means, a support for the last mentioned means always maintaining the film holding and supporting means exterior to the liquid in the receptacle, and means for producing relative movement of the film suspended from said holder and said liquid, whereby the suspended film is moved through the liquid in said receptacle.

28. In a photographing apparatus, the combination of means for holding a supply of film constructed to protect said film from actinic rays of light, a receptacle containing liquid, means for moving film from the means for holding the supply thereof, means exterior to the liquid for supporting the film after its delivery from the means for holding a supply of film, and means on which the means for supporting the film is movable, in such relation to the receptacle containing liquid as to move the film through the liquid.

29. In a photographing apparatus, the combination of means for holding a supply of film constructed to protect said film from actinic rays of light, a receptacle containing liquid, film holding and suspending means, means for delivering film from the means for holding a supply of film to the film holding and suspending means, a support for the last mentioned means always maintaining the film holding and suspending means exterior to the fluid in the receptacle, and means for reciprocating said film holding and suspending means across said receptacle whereby film carried by the film holding and suspending means is subjected to the action of fluid in the receptacle.

30. In a photographic apparatus, the combination of means for holding a supply of film constructed to protect said film from actinic rays of light, a liquid holder, film holding and suspending means, means for transferring film from the means for holding a supply of film to the film holding and suspending means, a support for the film holding and suspending means above the liquid in the holder, and means for producing relative movement of said film suspended from said holding means and said liquid comprising a to and fro



moving member whereby the film is subjected to the action of the liquid.

31. In a photographing apparatus, the combination of means for holding a supply of film constructed to protect said film from actinic rays of light, receptacles to which the film is delivered, means for delivering the film thereto, means mounted to reciprocate with relation to the receptacles and operative to transfer film from one receptacle to another, and means for cutting the film.

32. In a photographing apparatus, the combination of means for holding a supply of film constructed to protect said film from actinic rays of light, receptacles to which the film is delivered, means for engaging the film, means for moving the film engaging means lengthwise of the chamber, and means for cutting the film.

33. In a photographing apparatus, the combination of means for holding a supply of film, constructed to protect said film from actinic rays of light, a liquid holder, film feeding means situated between said holder and the source of supply of film, and a reciprocating film moving means situated to receive the film coming from said film feeding means to carry said film and subject the film to the action of a liquid in the liquid holder.

34. In a photographing apparatus, the combination of means for holding a supply of film constructed to protect said film from actinic rays of light, a liquid holder, film feeding means situated between said holder and the source of supply of film, and a reciprocating film clamp situated to receive the film coming from said film feeding means.

16 35. In photographing apparatus, the combination of means for holding a supply of film constructed to protect said film from actinic rays of light, a liquid holder, film feeding means situated between said holder and the source of supply of film, a reciprocating film clamp, means for operating the clamp to engage the film, and means for operating the clamp to release the film.

36. In a photographing apparatus, the combination of means for holding a supply of film, a receptacle containing liquid, film holding and suspending means, means located adjacent the receptacle containing liquid for supporting the last mentioned means and maintaining the film holding and supporting means exterior to the liquid in the receptacle, the said film holding and suspending means comprising a to and fro movement member adapted to travel on the means for supporting the same for producing relative movement of the film suspended from said holder and said liquid whereby the suspended film is moved through the liquid in said receptacle.

37. In a photographing apparatus, the combination of means for holding a supply of film, a receptacle containing liquid, film holding and suspending means, means for delivering film from the means for holding a supply of film to the film holding and suspending means, a support adjacent to the receptacle containing liquid, said film holding and suspending means being supported thereby for maintaining the film holding and suspending means exterior to the fluid in the receptacle, and means for reciprocating said film holding and suspending means on the support across said receptacle.



38. In a photographing apparatus, the combination of means for holding a supply of film constructed to protect said film from actinic rays of light, a liquid holder, film holding and suspending means, a support for the latter above the liquid holder, means for delivering film from the means for containing a supply thereof to the film holding and suspending means, and means for producing relative movement of said film suspending means and the liquid holder, for carrying the film through the fluid in the holder.

39. In a photographing apparatus, the combination of means for holding a supply of film constructed to protect said film from actinic rays of light, a liquid holder, film feeding means situated between said holder and the source of supply of film, a reciprocating film moving means, means for supporting the reciprocating film moving means, situated in proximity to the liquid holder and in position to subject the film to the action of the liquid, said film supporting means adapted to travel on the said support across the liquid holder.

40. In a photographing and developing apparatus, an inclosing casing adapted to contain a supply of film and having means for exposing portions of said film to actinic light, receptacles within the casing for containing developing fluids, a reciprocating developing means operative to develop said exposed film, means for delivering the film from the exposing means to the reciprocating developing means, and means for severing the film.

41. In a photographing and developing apparatus, an inclosing casing adapted to contain a supply of film and having means for exposing portions of said film to actinic light, receptacles within the casing for containing developing fluids, reciprocating means operative to subject said exposed portions of film to the action of the fluids within said receptacles, means for delivering the film from the exposing means to the reciprocating means, and means for severing the film.

17 In testimony whereof I affix my signature in the presence of two witnesses this 15th day of March, 1907.

Witnesses:

GEORGE C. BEIDLER.

LATTES E. BARKLEY.  
WILFRED E. LAWSON.

## II.

The claimant's petition, specification, and claims in his said application for patent, as originally filed, were as follows:

### *Petition.*

To the Commissioner of Patents:

Your petitioner, George C. Beidler, citizen of the United States of America, residing at Oklahoma City, in the county of Oklahoma, and State of Oklahoma, whose post-office address is Oklahoma City, Okla., prays that letters patent may be granted to him for the im-



provement in printing and developing apparatus as set forth in the annexed specification.

And he hereby appoints Frank S. Appleman, Washington, D. C., as his attorney, with full power of substitution and revocation, to prosecute this application, to make alterations and amendments therein, to receive the patent, to sign the drawings, and to transact all business in the Patent Office connected therewith.

Signed at Washington, D. C., this 15th day of March, 1907.

GEORGE C. BEIDLER.

### *Specification.*

To all whom it may concern:

Be it known that I, George C. Beidler, citizen of the United States of America, residing at Oklahoma City, in the county of Oklahoma and State of Oklahoma, have invented certain new and useful improvements in printing and developing apparatus of which the following is a specification.

This invention relates to printing and developing apparatus referring more particularly to an apparatus designed primarily for reproducing writings, drawings, pictures or the like, novel means being also provided to convey the sensitized film through a series of receptacles containing suitable developing and fixing fluids or through suitable baths according to the requirements.

It is an object of this invention to provide an apparatus which will be simple in construction, efficient in practice, and economical to manufacture.

With the foregoing and other objects in view, the invention consists in the details of construction and in the arrangement and combination of parts to be hereinafter more fully set forth and claimed.

In describing the invention in detail, reference will be had to the accompanying drawings forming part of this specification wherein like characters denote corresponding parts in the several views, in which

18 Figure 1, is a longitudinal vertical sectional view through the casing with parts in elevation.

Fig. 2 is a detail view of clips and means for operating them.

In these drawings, A denotes a suitable casing supported in any manner desired containing a compartment B, adapted to contain sensitized paper, preferably in roll form. The roll is suitably mounted to rotate and the paper drawn from the roll is projected through the top of the compartment between the rollers *b*, and then directed to travel over the top of the said compartment between the rollers D, into the compartment E.

There is an exposure chamber F, above the compartments and a suitable camera G, is provided for taking the picture, there being an angularly disposed mirror H, in the exposure chamber for reflecting the image on the sensitized paper or film heretofore referred to.

The compartment E, is provided with a series of pans or tanks I, J, and these tanks may be multiplied to suit the requirements of



practice to contain the several liquids required in fixing and developing the exposed films.

If desired a third compartment may be provided with water for washing the film, but as that is an immaterial detail, further reference to these elements will not be made.

In order to draw the film through the several compartments, I provide a mechanism consisting of a shaft K, having toothed wheels L, which mesh with a rack M, the said rack being suitably guided in the compartment E, and being alternately reciprocated through the rotation of the shaft K, in opposite directions. When the shaft is turned to the right, the said rack will be projected from the compartments until the inner end thereof is nearly in line with said shaft K. When the shaft is rotated in the opposite direction, the said rack will, of course, be retracted and thrust into the compartment. It is the purpose of this invention that the said rack shall carry clips N, which are designed to clamp on the edges of the film and as the said rack is moved outwardly, the film is carried through the several tanks as indicated.

In order to sever the prints into appropriate lengths, I provide a cutter O, which is here shown as manually operated, although the means for operating the cutters may be variously modified.

Any suitable means may be provided for drawing the film through the exposure chamber, but I have shown the roller D, provided with a crank handle so that as the said roller is turned, the film will be drawn through the chamber and projected under the knife where it can be engaged by the clips carried by the rack.

What I claim is:

1. In a photographic and developing apparatus, a suitable exposure chamber with means for exposing the film to light, suitable means for drawing the film through the exposure chamber, means for severing the film, a series of tanks through which the film is to be drawn, and a suitable rack and gear operating mechanism adapted to carry the film through the tanks.

2. In a photographic and developing apparatus, a suitable casing, a compartment adapted to contain a supply of film, means for drawing the film therefrom, an exposure chamber through which the film is drawn, a series of tanks, a rack and gear operating with relation to the tanks, and means on the rack for engaging the film to  
19 carry the film through the tanks.

3. In a photographic and developing apparatus, a suitable casing, a compartment adapted to contain a supply of film, means for drawing the film therefrom, an exposure chamber through which the film is drawn, a series of tanks, a rack and gear operating with relation to the tanks, and means on the rack for engaging the film to carry the said film step by step through the tanks.

In testimony whereof I affix my signature in the presence of two witnesses, this 15th day of March, 1907.

GEORGE C. BEIDLER,

*Inventor.*

After some amendment of the drawings and multitudinous amendment of the specification and claims by the applicant, in response



to numerous and repeated objections and rejections by the Patent Office, throughout the six years the application was pending in said office, the drawing and specification of the application were modified and changed to the form in which they appear in the patent, and the three original claims of the application changed and increased to the 41 claims of the patent as issued.

The claims of the patent which are claimed in this suit to have been infringed by the United States are claims 17, 18, 33, 34, and 40.

### III.

Of the proceedings in the Patent Office shown by the "File wrapper and contents," and comprising 76 printed pages of the record, only the following are considered material to the determination of the questions of law involved in this case.

By office action of May 21, 1907, the three original claims of the application were rejected as being for mere aggregations, the rejection being as follows:

"The claims are each rejected as being drawn to aggregations. There is no patentable combination between the exposure device and the specific developing apparatus because the broad combination is old. In this connection see the patents; 429,705, June 10, 1890, Steffens; 688,115, December 3, 1901, Pollak et al.; 740,828, October 6, 1903, Dudley; 830,741, September 11, 1906, Prentiss."

On May 13, 1908, Beidler amended by canceling the original specification and substituting therefor a new specification, in support of which he filed a supplemental oath.

On September 22, 1909, the applicant amended by adding a number of claims, among which was claim 9, as follows:

"9. In a photographic and developing apparatus, a casing having a chamber for exposing film to light, a source of supply from which film is fed to the said chamber, means for causing the film to travel after its exposure, receptacles for fluids, said fluids adapted to act on the film, and a reciprocating member adapted by its operation to subject the exposed films to the action of the fluids in the receptacles."

This claim was rejected by the examiner as follows:

"Claim 9 is rejected on Beidler, of record. There is nothing in the term 'reciprocating,' line 6, to indicate a structure warranting allowance of this claim over Beidler, since it is not obvious  
20 that the reciprocation of the member controls the development. The developing attends the movement to the right of the member M, and it is immaterial as bearing on this claim whether M returns to film-receiving position by a reverse movement, or, as in Beidler, by completing a closed path.

"This claim is also met in Wight, 616,999, January 3, 1899."

On April 20, 1910, amended claims 6 and 7 were amended by Beidler to read as follows:

"6. In a photographic and developing apparatus, means for exposing film to light, a chamber in position to receive film from the exposing means, means for delivering film from the means for ex-



posing film to light directly to the chamber, receptacles in said chamber for containing fluids, means for cutting the film, and reciprocating means for subjecting successive sections of cut film to the action of the fluids.

"7. In a photographic and developing apparatus, means for exposing film to light, a chamber in position to receive film from the exposing means, means for drawing exposed film from the means for exposing film to light directly thereto, a receptacle for containing liquid, and means in the chamber mounted to reciprocate for delivering film to the receptacle, and means for cutting the drawn portion of the film."

These claims were rejected by the examiner by action of November 29, 1910, as follows:

"Claims 6 and 7 are rejected on each of Beidler, 810,388, January 23, 1906, and Wight, 616,999, January 3, 1899, viewed as with the developing means shown in each replaced by that shown in British patent to Clark, 1015 of 1899."

On February 7, 1911, Beidler, among a number of amendments, amended by adding claim 11, as follows:

"11. In a photographing and developing apparatus, means for exposing film to light, means for cutting the film, a chamber in position to receive film from the exposing means, means for drawing film to the chamber from the means for exposing the film to light, receptacles within the chamber for containing fluids, a member for moving the film and receptacles with relation to one another, said means comprising a reciprocating member mounted in the casing, and means for reciprocating the member."

This claim was rejected by the examiner, as follows:

"Claims 8 and 11 are rejected on Clark of record, since Clark has a member that reciprocates to facilitate removal of film from one to another of the fluid receptacles. These claims do not indicate that the reciprocating member actually transfers film, but only that it reciprocates with that end in view."

"These claims are also rejected as broader than applicant's disclosure, in view of the decision in Continental Paper Bag Co. v. Eastern Paper Bag Co., 136 O. G., 1297. Applicant's device merely moves the film, and a claim broad enough to cover movement of either the film or the receptacle is not warranted."

On May 23, 1911, Beidler amended his amended specification by inserting therein the following statement:

"A preferred form of construction of my apparatus will be herein described, but it is to be understood that this particular form is shown only for the purpose of illustrating one embodiment of the invention."

Also, on the same date, he amended by adding, with others, claim 20, as follows:

"20. A photographing and developing apparatus having a casing provided with an opening for exposing film to light, containers for liquids within a portion of the casing, means for feeding film after exposure into that portion of the casing having the containers for liquids, means between the feeding means and containers for grip-



ping film, means for causing the gripping means to move and draw film from one container of liquid to another, and means to cause the gripping means to release the film."

The examiner, on June 15, 1911, rejected this claim, as follows:

"Claim 20 is rejected on Steffens, 429,705, June 10, 1890. In this reference Q forms the feeding means, RR' form the gripping means, and the stripping means associated with chute u forms the means to cause the gripping means to release the film."

On May 15, 1911, Beidler filed additional claims 12 to 19, inclusive, claims 17 and 18 of which are involved in this case, and, as originally filed, were as follows:

"17. In a photographing apparatus, the combination of means for holding a supply of film, constructed to protect said film from actinic rays of light, means for subjecting a portion of film at a time to the action of such rays, said portion thereafter being subjected to the action of a treating liquid, a liquid holder, film-feeding means situated between said holder and the source of supply of film, and a reciprocating film-moving means situated to receive the film coming from said film-feeding means.

"18. In photographing apparatus, the combination of means for holding a supply of film, constructed to protect said film from actinic rays of light, means for subjecting a portion of film at a time to the action of such rays, said portion thereafter being subjected to the action of a treating liquid, a liquid holder, film-feeding means situated between said holder and the source of supply of film, and a reciprocating film clamp situated to receive the film coming from said film-feeding means."

On June 27, 1911, Beidler, upon the suggestion of the examiner that the clause in these and other claims reading, "said portion thereafter being subjected to the action of a treating liquid," was superfluous, amended by canceling this clause.

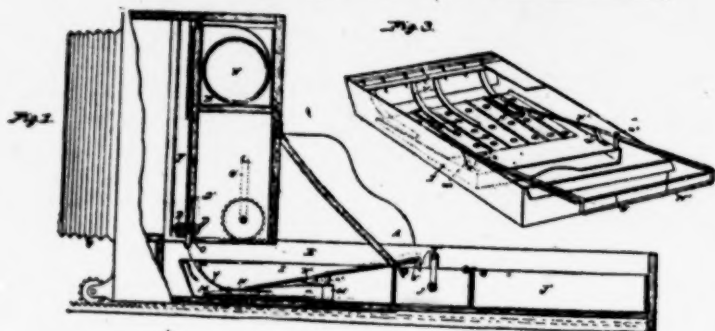
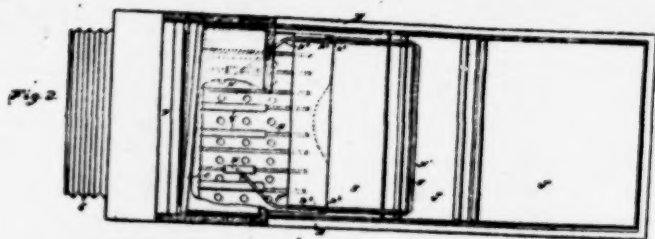
On October 28, 1911, the examiner objected to claim 17 on the grounds that it "should describe means whereby the reciprocating means is moved across the receptacles," and that it "should correlate the liquid holder with the reciprocating film-moving means;" and both claim 17 and claim 18 were rejected as follows:

"Claims 8, 11, 12, 13, 14, 15, 16, 17, 18, and 19 are rejected as mere aggregations of an exposing camera and developing apparatus between which there is no cooperation as indicated in the last office action. The means for subjecting the film to expose does not cooperate with the liquid-developing means."

Upon these claims being submitted by Beidler for reconsideration, they were again, on December 26, 1911, rejected by the examiner as follows:

22 "Claims 8, 11, 12, 13, 14, 15, 16, 17, 18, and 19 are rejected as mere aggregations under in re McNeil, C. D. 1902, page 313. The combination of an exposing camera and a fluid-treating apparatus is old, as shown by Pollak et al. or Beidler, both of record. As the only apparent novelty in these claims lies in the fluid-treating apparatus, they should be limited to the fluid-treating apparatus per se."











On December 30, 1911, Beidler again submitted these claims for reconsideration; but on January 31, 1912, before action by the Patent Office, he amended by inserting the words "and having" before the words "means for subjecting." By action of February 17, 1912, the examiner granted permission to make a requested change in the drawings, and, among many objections to numerous claims, objected to claim 18 on the ground that it did not "correlate the reciprocating film clamp with the liquid holder," and again rejected claims 8 and 11 to 19 "as covering mere aggregations."

On May 3, 1912, Beidler further amended claim 17 by adding at the end thereof the clause, "so as to carry said film and subject the film to the action of liquid in the liquid holder"; and as thus amended the claim was later allowed.

Also, claim 18 was further amended by adding thereto the clause "and operative to subject the film to the liquid in the liquid holder," which amendment put the claim in the form in which it was thereafter allowed.

Claims 33 and 34 were introduced by amendment on December 30, 1911, and as introduced read as follows:

"33. In a photographing apparatus, the combination of means for holding a supply of film, constructed to protect said film from actinic rays of light, a liquid holder, film feeding means situated between said holder and the source of supply of film, and a reciprocating film moving means situated to receive the film coming from said film feeding means as to carry said film and subject the film to the action of a liquid in the liquid holder.

"34. In photographing apparatus, the combination of means for holding a supply of film, constructed to protect said film from actinic rays of light, a liquid holder, film feeding means situated between said holder and the source of supply of film, and a reciprocating film clamp situated to receive the film coming from said film feeding means."

On May 3, 1912, claim 33 was amended by canceling the word "as" in the last clause of the claim; and claim 34 was amended by inserting the word "a" before the word "photographing" in the first line of the claim, in which amended form these claims were finally allowed.

Claim 40 was introduced by amendment on May 24, 1912, in the form in which it was allowed by the examiner and appears in the patent.

#### IV.

Beginning during the year 1911, the United States Government has used in the transaction of its business a number of photocopying machines of a type known as the photostat, which machines are made and sold by the Commercial Camera Co., of Rochester, N. Y.

The general construction of the photostat is shown by the following drawing.

(Here follows drawing marked page 23.)



23 The print-handling slide M, which is an element of the machine especially involved in the question of infringement and is best known in figure 3 of the drawings, in place in the developer tray, has a plate-like bottom resting on the bottom of the tray, with a number of perforations or holes therein, ribs, or ridges, on its upper surface for forming limited points of contact with the film or print when it rests thereon, and the clamping fingers N, attached to the ends of the finger bars N<sup>2</sup>, for clamping and holding the print when it is fed between these fingers and the bottom of the slide. The finger bars N<sup>2</sup> are pivoted to vertical posts, n<sup>2</sup>, rising from the body of the slide and are connected together by the handlebar N'; and the fingers N are normally held in a raised position from the bottom of the slide by the tension of the springs n<sup>3</sup> against the undersides of the finger bars N<sup>2</sup> to allow the film or print to be fed between the fingers and the bottom of the slide. The handlebar U is connected rigidly to the rear portion of the slide.

The mode of operation of the machine is as follows:

The film roll W being in place in the film-supply receptacle B, and a portion of the film (F) being in position for the photographic exposure, the developing hood A being closed down to exclude the light from the developing chamber E, containing the developing tray I, and with the developing tray I, the fixing tray J, and the washing tray J' properly supplied with their respective fluids, and the

24 slide M in the developing tray being well forward in the tray for receiving the exposed film or print to be developed, the exposure of the film or sensitized paper is then made in the usual way. Then by hand-crank rotation of the film-feeding rollers D D the exposed portion of the film, or print, is fed downward through the slot just below the rollers and into the developing tray and liquid, guided by the finger guides V of the tray and passing above the bottom of the slide M and between it and the raised fingers N of the spring-supported finger bars N<sup>2</sup>. The exposed section of the film, or print, is then cut off just below the film-feeding rollers by the Knife O, operated by the hand crank O', as indicated, or as in some instances, by hand lever. Then by the operator grasping and pressing together the movable handlebar N' and the fixed handlebar U of the slide M (best shown in fig. 3), the terminal fingers N of the pivoted finger bars N<sup>2</sup> are, by the resulting upward movement of the handlebar N', and against the tension of the springs n<sup>3</sup>, pressed down until the print is grasped between them and the bottom of the slide. The slide is then drawn, with the print, back in the developing tray and liquid, and any portion of the severed film next to the knife which may not already have passed into the developer is thereby drawn therein. All these movements are to be performed quickly in order that all portions of the paper shall be subjected to the action of the developing fluid as nearly as possible the same length of time, this being essential to good photographic work. When the paper has been in the developing fluid the proper length of time, ordinarily about 30 seconds, the slide M is drawn back, the rear end upward onto the back and partially out of the developing tray and chamber, bringing with it the developed print,

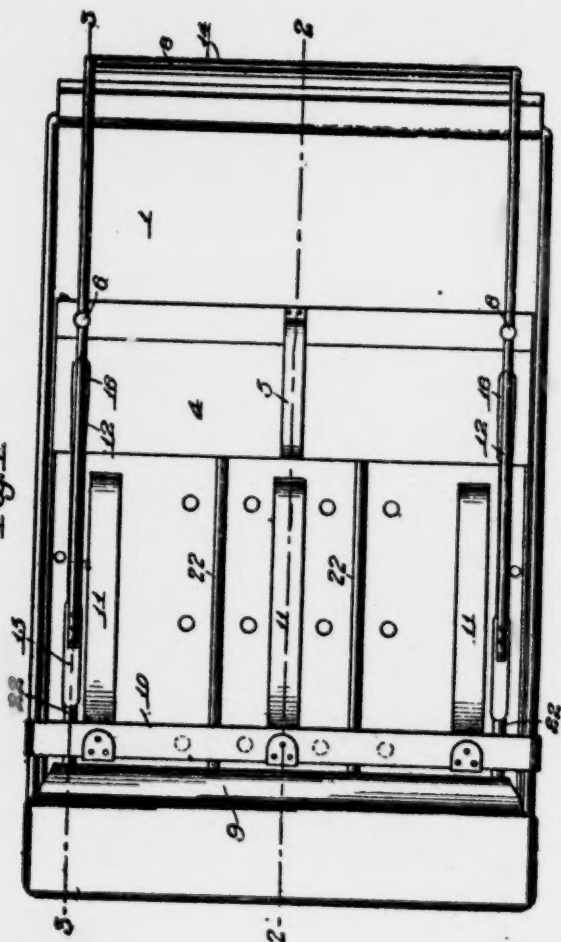


J. S. GREENE.  
 PHOTOGRAPHIC PRINT HANDLING DEVICE.  
 APPLICATION FILED MAY 19, 1911.

1,001,019.

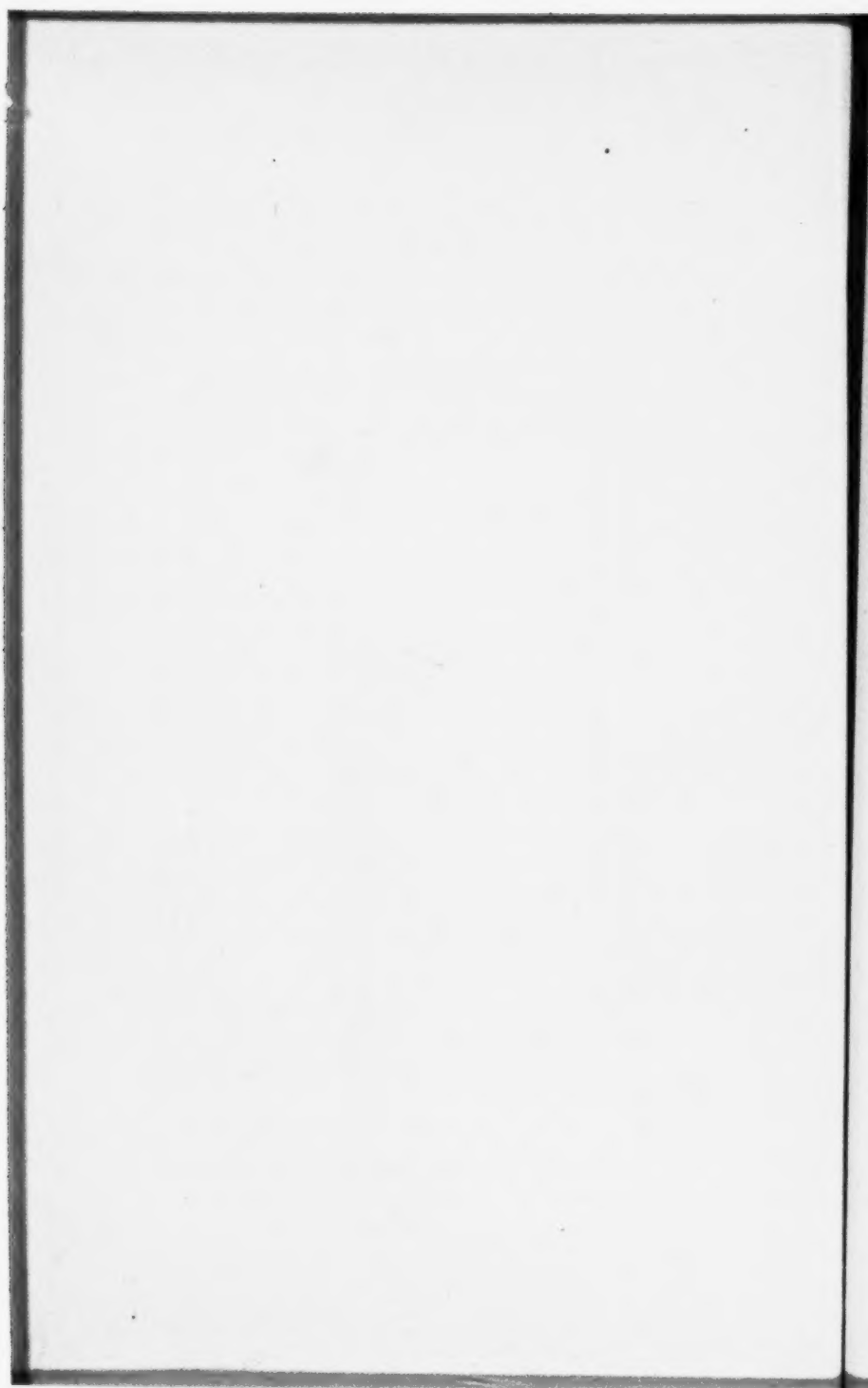
Patented Aug. 22, 1911.

Fig. 1



No. 182  
 Beidler p 25







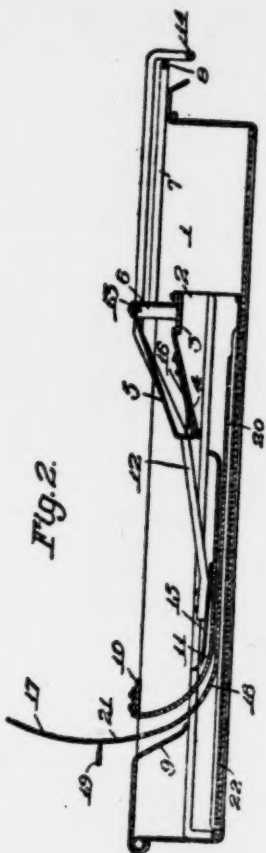


Fig. 2.



Fig. 3.

W. H. H. 1882  
 Nelson & Co  
 Russell & Griffiths

Inventor  
 JOHN S. GREENE

Charles B. Smith  
 His Attorney

25-1

No. 782  
 Bender } p. 26  
 W. H. H. }  
 W. H. H. }







which is then drawn by the hand out of the slide and by the hand successively put through the fixing bath and the water bath in the open fixing tray J and washing tray J', thus completing the photographic process. The slide M being returned to place in the developer tray, the machine is ready for a repetition of the process, a new unexposed section of film having been brought into position for exposure by the action of the film-feeding rollers in feeding the former exposed section of film into the developer tray and liquid.

From the time of the introduction of the photostat into use in 1910, until February, 1911, these machines were not provided with the print-handling slide M, the films or prints being manipulated in the developer bath, as well as in the fixer and water baths, directly and entirely by the hands or fingers of the operators. Since February, 1911, the slide M has been furnished and used with such machines, it being manufactured by the said Commercial Camera Co. under authority from the owner of Letters Patent to Greene No. 1,001,019 of August 22, 1911, which patent is as follows:

27

## United States Patent Office.

John S. Greene, of Rochester, New York, assignor, by mesne assignments, to Commercial Camera Company, of Providence, Rhode Island, a Corporation of Rhode Island. Photographic-Print-Handling Device. 1,001,019. Specification of Letters Patent. Patented August 22, 1911. Application filed May 13, 1911. Serial No. 627,041.

To all whom it may concern:

Be it known that I, John S. Greene, of Rochester, in the county of Monroe and State of New York, have invented new and useful Improvement in Photographic-Print-Handling Devices; and I do hereby declare the following to be a full, clear, and exact description of the same, reference being had to the accompanying drawings, forming a part of this specification, and to the reference-numerals marked thereon.

My present invention relates to photography and it has for its object to provide simple and effective means for handling photographic prints incident to the process of developing, fixing, washing or otherwise treating them in a liquid bath.

The improvements are directed in part to features by the provision of which the operator is not required to immerse his hands in the liquid, and a further object of the invention is to provide a device of this character adapted for the day light method of treating the prints, particularly when fed to the apparatus from an automatic or mechanical device such as a camera that exposes a strip of sensitized material, severs the exposed portion and delivers it from treatment.

To these and other ends the invention consists in certain improvements and combinations of parts as will be hereinafter more fully described, the novel features being pointed out in the claims at the end of the specification.

(Here follows diagrams marked pp. 25 and 26.)



In the drawings: Figure 1 is a top plan view of a print handling device constructed in accordance with and illustrating one embodiment of my invention; Fig. 2 is a longitudinal section view taken substantially on the line 2—2 of Fig. 1, but showing the carrier in one position, and Fig. 3 is a similar view taken, however, on the line 3—3 of Fig. 1, and showing the carrier in another position.

Similar reference numerals in the several figures indicate the same parts.

Referring more particularly to the drawings 1 indicates a suitable pan or liquid containing receptacle that is preferably of a shape permitting it to be arranged beneath an apparatus from which the prints are automatically fed to this developing device. A preferably tray-shaped carrier 2 is arranged within the pan and preferably so proportioned as to approximately make a close fit therewith transversely thereof, but the tray is shorter than the pan so that latitude is given it for a reciprocatory movement back and forth longitudinally of the container. At the right, or what may be referred to as the forward end, of the tray is provided, in the present instance, a bridge piece 3 that spans it transversely, the same being extended inwardly and downwardly over the tray in the form of a plate 4

that may be reinforced at its center by a brace piece 5 connected thereto and to the body of 3 of the bridge. Mounted on the bridge piece are two posts 6 to which are connected, respectively, the ends 7 of the bail shaped handle 8 that extends forwardly beyond the edge of the tray, as shown, and provides means for reciprocating the latter within the receptacle.

At the opposite end the receptacle 1 is fitted with a downwardly and forwardly extending guide plate 9 and adjacent thereto with a bridge piece 10 that spans the receptacle and is adjustably mounted to slidably engage the rim thereof, and carries a plurality of downwardly and forwardly curved guiding fingers 11.

The tray 2 constitutes a holding jaw adapted to accommodate the print in a flat condition and that acts in conjunction with a relatively movable clamping jaw also forming part of the carrier. This clamping jaw is constituted, in the present instance, by a pair of arms 12, preferably pivoted at 13 in the posts 6 and connected at their outer ends by a handle portion 14 arranged adjacent to the handle portion 8 of the holding jaw 2. The inner or free ends of the arms 12 are provided in the present instance with shoes 15 that move toward and from the bottom of the tray 2 as the arms are vibrated, but which normally are held spaced from said bottom by the action of leaf springs 16 engaging beneath them and mounted, in the present instance, on the plate 4.

As before indicated, the present apparatus is adapted for use in connection with devices for mechanically feeding the prints thereto, (although such an association is not necessary to its use), and in Fig. 2 I have made a showing suggesting such a device wherein 17 indicates a continuous strip of sensitized material, fed in any desired manner, and the exposed portion 18 of which is served by a knife 19 as it is delivered to the bath. In the operation of the device, the parts are so arranged that the exposed print 18 is fed down



between the guiding plate 9 and the guiding fingers 11, being directed by the former beneath the latter so that its advancing edge 20 is thrust along well toward the front of the holding jaw or tray 2 of the carrier. As the print is severed, the rear end 21 thereof is left projecting upwardly, as shown in Fig. 2, and though the forward end 20 is submerged within the liquid, arrangements must be made for lowering and submerging this rear end 21 by the manipulation of which the front end was advanced. To effect this and dispose the print as a whole in a flat condition within the receptacle 1 and tray 2, the operator raises the handle 14 which causes the clamping jaws 12 to move downward against the tension of springs 16, and grip the forward end of the print 18 at its opposite edges. The handle 14 is preferably offset from the arms that it connects, as shown in Fig. 2, so that it is normally lower than the handle portion 8 and by pressing these two together the jaws are moved together. The carrier is then drawn forward to the position of Fig. 3 by means of either handle 8 or 14, or both of them, and the print 18, being gripped between the shoes 15 and the bottom of the tray or holding jaw 2, is also drawn forward and the rear end thereof drawn beneath the guiding fingers 11 and in this way submerged in the liquid bath. If this movement is not sufficient to draw the whole of the print beneath the guide, the clamping jaw 12 is released and allowed to rise from engagement therewith under the influence of the springs 16 and the whole carrier is then thrust rearwardly again to the position of Fig. 2. Because of its inertia, the print does not follow it in this movement immediately, if at all, and then the jaws are moved together again the print is gripped at a more rearward point so that upon drawing the carrier forward, the print is moved farther forward than before and this operation may be repeated until all of it is drawn into the bath, providing it is not too long for the receptacle. The print may also be held within the carrier and the latter moved back and forth after the print is entirely immersed and flattened out to a proper condition for the purpose of flowing the liquid over its surfaces, as is desirable in treatments of this kind.

In order to support the print in the tray or holding jaw 2 in such manner that it will not stick to the bottom thereof, I prefer to provide said bottom with a plurality of raised ribs 22 upon which the print rests with a body of liquid on both sides, and preferably the shoes 15 on the clamping jaw 12 engage the print at points in alignment with two of these ribs so that firm hold is obtained without liability of wrinkling the material.

When it is desired to remove the print, the carrier may be raised by means of the handles until its front end is above the rim of the receptacle 1 whereupon the front edge of the print becomes accessible to the operator's fingers, or any instrument he may desire to use, in order to grip it, and if he does use his fingers this is the only time at which the contents of the receptacle touches his hands. It will be noted that the carrier is operated from one end of the receptacle and the print withdrawn at the same point so that the placing of an apparatus for feeding the prints to this device above the same in a



manner to wholly or partially protect the contents of the receptacle does not interfere with the operation.

Another advantage gained from the use of a device constructed in accordance with my invention is that when the receptacle 1 is utilized as a developing pan from which the prints must be transferred to the fixing solution or hypo, there is no possibility of the latter solution being mixed in with the fixing bath which deteriorates rapidly when contaminated in this way. When an operator makes the transfer by hand, as formerly, his hands become wet with fixing solution which is carried into the developing pan in the process of handling the print therein.

I claim as my invention:

1. A photographic print handling device, comprising in combination a tray shaped holding jaw adapted to receive the print in flat condition and a pivoted clamping jaw adapted to grip the print against the bottom thereof.

2. A photographic print handling device comprising in combination a tray shaped holding jaw adapted to receive the print in flat condition and a pivoted clamping jaw embodying a pair of arms adapted to grip the print at opposite edges, respectively, against the bottom of the holding jaw.

3. A photographic print handling device comprising in combination, a tray shaped holding jaw adapted to receive the print in flat condition and provided with a projecting handle portion and a pivoted clamping jaw embodying a pair of arms adapted to grip  
30 the print at opposite edges, respectively, against the bottom of the holding jaw, said clamping jaw also being provided with a handle portion connecting the arms and arranged adjacent to the handle portion of the other jaw.

4. A photographic print handling device comprising in combination a tray shaped holding jaw adapted to receive the print in flat condition and provided with a bridging portion spanning one end and a clamping jaw pivoted on the bridging portion and adapted to grip the print against the bottom of the holding jaw.

5. A photographic print handling device comprising in combination a tray shaped holding jaw adapted to receive the print in a flat condition and having a longitudinally extending raised rib on its bottom on which the print rests and a pivoted clamping jaw adapted to grip the print against the bottom of the holding jaw, and to engage the same in alinement with the rib.

6. In a photographic print handling device, the combination with a liquid containing receptacle, of a tray shaped member shorter than the receptacle arranged therein to move back and forth and adapted to receive a print in flat condition and a clamping jaw movable relatively to the tray shaped member to grip a print against the latter.

7. In a photographic print handling device the combination with a liquid containing receptacle, of a carrier arranged therein to be movable longitudinally thereof and comprising relatively movable members adapted to grip the end of a print introduced between them.

8. In a photographic print handling device, the combination with a liquid containing receptacle, of a carrier arranged therein to be



movable longitudinally thereof comprising relatively movable members adapted to grip the end of a print introduced between them, and means at one end of the receptacle for guiding a print between the members.

9. In a photographic print handling device, the combination with a liquid containing receptacle, of a carrier arranged therein to be movable longitudinally thereof comprising relatively movable members adapted to grip the end of a print introduced between them, and means at one end of the receptacle for guiding a print between the members embodying a bar adjustable on the receptacle and provided with curved fingers extending downwardly toward the bottom of the latter.

10. In a photographic print handling device, the combination with a liquid containing receptacle, of a carrier shorter than the receptacle and slidable therein comprising a tray shaped holding jaw adapted to receive a print in flat condition and a clamping jaw movable relatively to the tray shaped jaw to grip the print against the latter, and a handle on the carrier projecting beyond the receptacle and accessible from the exterior thereof.

11. In a photographic print handling device, the combination with a liquid containing receptacle, of a carrier shorter than the receptacle and slidable therein comprising a tray shaped holding jaw adapted to receive a print in flat condition and a clamping jaw movable relatively to the tray shaped jaw to grip the print against the latter, and a handle on the clamping jaw extending beyond the receptacle in all the positions of the carrier.

12. In a photographic print handling device, the combination with a liquid containing receptacle, of a carrier shorter than the receptacle, and slidable therein comprising a tray shaped holding jaw adapted to receive a print in flat condition and a clamping jaw movable relatively to the tray shaped jaw to grip the print against the latter, and handles on each jaw arranged adjacent to each other and extending beyond the receptacle in all positions of the carrier.

13. In a photographic print handling device, the combination with a liquid containing receptacle, of a carrier shorter than the receptacle and slidable therein comprising a tray shaped holding jaw adapted to receive a print in flat condition and a clamping jaw movable relatively to the tray shaped jaw to grip the print against the latter, and embodying a pair of arms arranged at opposite sides of the holding jaw to engage the print near its edges, a bridge piece spanning the tray shaped jaw at one end to and upon which the arms of the clamping jaw are pivoted, a handle portion connecting said arms and a handle portion on the holding jaw arranged adjacent thereto, both handles being arranged to extend beyond the receptacle in every position of the carrier.

14. In a photographic print handling device, the combination with a liquid containing receptacle, of a carrier shorter than the receptacle and slidable therein comprising a tray shaped holding jaw adapted to receive a print in flat condition and a clamping jaw movable relatively to the tray shaped jaw to grip the print against the latter,



and embodying a pair of arms arranged at opposite sides of the holding jaw to engage the print near its edges, a bridge piece spanning the tray shaped jaw at one end to and upon which the arms are pivoted, a handle portion connecting said arms and handle portion on the holding jaw arranged adjacent thereto, both handles being arranged to extend beyond the receptacle at one end in every position of the carrier and means at the other end of the receptacle for guiding a print edgewise between the jaws of the carrier.

JOHN S. GREENE.

Witnesses:

RUSSELL B. GRIFFITH,  
NELSON COPP.

V.

The said photostats so used by the United States, defendants, were regularly purchased by the defendants either from the National Photographic Supply Co., of Washington, D. C., or from the Commercial Camera Co., of Rochester, N. Y., in the regular course of commerce and trade. The use of said machines by the defendants was without any license or authorization therefor from the claimant, and no payment has ever been made to the claimant by the defendants on account of such use.

VI.

At the time of the filing of the claimant's application for said letters patent there were in the art to which said application related a number of patents disclosing photographic machines for the same purpose and of the same general character as the claimant's machine illustrated by his said patent No. 1,057,397—that is, photographic machines for continuous-process photography, having combined and co-operating mechanical means (a) for holding a supply of 32 film (or print paper,) (b) for supplying a portion of such film in proper position in the camera for the photographic exposure and exposing the same (c) for conveying the exposed portion of film to a light-proof chamber having receptacles for developing, fixing, and washing solutions or liquids, (d) for detaching the exposed section of the film from the unexposed portion of the film supply, and (e) for conveying the exposed film successively through the developing, fixing, and washing solutions or liquids for the development and finishing of the negative or print.

In the structures disclosed by said patents all of the above enumerated means were substantially the same as in the structure or machine of the claimant's patent in suit with the exception of the means for conveying the exposed section of film through the developing and other solutions or liquids. In some of said patents this operation was performed by means of continuous, or endless, belt or apron carriers, operating upon rollers, by which the film was held and carried successively down into and up out of the trays or receptacles contain-



ing the developing, fixing, and washing solutions or liquids; and in others of the patents it was performed by manually operated reciprocating means. There was also in the printing art at the time of the claimant's application for his said patent, an automatic reciprocating device for engaging and transferring the printed sheet from the cylinder of the press to the delivery board, which device is very similar in character and action to the said film-conveying means of the claimant's patent in suit.

The following patents are disclosed in the prior art: No. 112,380, of 1871, to Ratzell; No. 117,106, of 1871, to Parker; No. 133,394, of 1872, to Waterbury; No. 157,459, of 1874, to Niel; No. 420,355, of 1890, to Perry; No. 429,705, of 1890, to Steffens; No. 475,552, of 1892, to Godfrey; No. 616,999, of 1899, to Wight; No. 1,015, British, of 1899, to Clark; No. 683,031 of 1901 to Fleischer; No. 688,115, of 1901, to Pollack & Virag; No. 740,828, of 1903, to Dudley; No. 810,388, of 1906, to Beidler; Reissue No. 12,834, of 1908, to Beidler; No. 830,741, of 1906, to Prentiss. Said patents are, by this reference thereto, made a part of these findings.

## VII.

In the light of the prior art and the expert evidence in the case it does not appear that any of the improvements patented to the claimant in his said Letters Patent No. 1,057,397 have been used by the defendants in their use of the said photo-copying machines as recited in Finding IV preceding, or that said letters patent have been infringed by the defendants.

## VIII.

No machine or machines within, or embodying the mechanism of, claims 17, 18, 33, 34, or 40 of the patent in suit have ever been commercially manufactured and used; nor does it appear that any machine has ever been constructed and practically operated within the claims and by the disclosed method of operation of said patent.

A small number of such machines are claimed by the plaintiff to have been manufactured, sold, and used; but it is not satisfactorily established by the evidence that these machines, as so used, were the machines of the patent in suit, it appearing that some of them were, originally, types of machines disclosed by other patents of the claimant, and that in others of these machines such changes were made in their structure and mode of operation that they were not within the disclosures and claims of the patent in suit.

An operative machine, claimed by the plaintiff to be the machine of his patent in suit, has been introduced in evidence by the plaintiff as an exhibit in the case; but to the extent that this machine is shown to have been successfully operated in the production of intended results, it has been operated, in the developing of the film, after a different method than that disclosed in the patent, in this:



By the method contemplated and disclosed in the patent, the film with the exposed side up, held at one end by the clamps attached to the rack M and moving in a plane above the pans containing the developing and fixing fluids, is intended, by the outward movement of the rack, to be drawn successively through the developing and fixing fluids, the rack moving in one direction only throughout its entire course, the end of the film next the knife and away from the clamps falling, when severed by the knife, on the surface of the developer in the first pan and submerging by gravity. By the method pursued in the operation of the exhibit machine, after the film is severed and the severed end falls on or into the developer, the rack, by means of the crank, is oscillated back and forth in a range of a few inches until by its repeated reverse action, operating against the resistance of the submerged or free end of the film, the film is finally rolled over, with its exposed side down, in the developer, and submerged. And in order to permit this changed method of operation without repeated operation of the feeding pawl S, and resultant excessive feeding of film into the developing chamber, the locations of the operating pin U and the developer tray I are materially changed from the disclosures of the patent, the pin being moved to the forward end of the rack M, near the clip N, and the developer tray being moved farther forward and partially under the knife O. Also, an inwardly projecting lip is substituted on the forward end of the developer tray instead of the outwardly projecting lip shown by the patent, this being for the purpose of facilitating the submerging of the film, and of preventing the liquor being splashed or sloshed over the end of the tray by the movement of the film therein in this new method of its repeated reciprocation, or oscillation, in the tray and liquid.

## IX.

The machines of said claims 17, 18, 33, 34, and 40 of the patent in suit are not operative or useful machines when operated by the mode of operation contemplated and disclosed by the patent, for the reason that, so operated, they will not submerge all portions of the film in the developing liquid with sufficient rapidity and uniformity to secure proper development of the film.

Said machines can be rendered operative only by resorting to the new oscillating mode of operation evolved by the claimant and used in the operation of his said exhibit machine for submerging and developing the film, as described in finding VIII preceding, and by making the structural changes necessary to such changed mode of operation—that is, either changes in the location of the operating pin U and the developer tray I, or the alternative change of lengthening the feed pawl R, for the purpose of avoiding repeated operation of the pawl and excessive feeding of the film into the developing chamber by the repeated oscillation of the reciprocating rack M.



*Conclusion of Law.*

Upon the foregoing findings of fact the court concludes, as matter of law, that the plaintiff's said patent in suit has not been infringed by the United States, that said patent is invalid, and that the plaintiff's petition should therefore be dismissed, with judgment against the claimant in the sum of seven hundred and eighty-two dollars and thirty-two cents (\$782.32) for cost of printing the record, to be collected by the clerk as provided by law.

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*V. Judgment of the Court.*

At a Court of Claims held in the City of Washington on the Twenty-ninth day of April, A. D., 1918, judgment was ordered to be entered as follows:

The Court, upon due consideration of the premises find in favor of the defendants, and do order, adjudge, and decree that George C. Beidler, as aforesaid, is not entitled to recover and shall not recover any sum in this action of and from the defendants, the United States; and that the petition be and it hereby is dismissed: And it is further ordered, adjudged, and decreed that the defendants, the United States, shall have and recover of and from George C. Beidler, as aforesaid, the sum of Seven Hundred and Eighty-two Dollars and thirty-two cents (\$782.32), the cost of printing the record in said cause in this court, to be collected by the Clerk, as provided by law.

By THE COURT.

*VI. History of Proceedings After Entry of Judgment.*

On June 27, 1918 the claimant filed a motion for new trial and for amended findings of fact.

On November 4, 1918 this motion was overruled by the court.

*VII. Claimant's Application for, and Allowance of, an Appeal.*

From the judgment rendered in the above entitled cause on November 4, 1918 in favor of defendant, the claimant, by his attorney on the 9th day of December, 1918, makes application for, and gives notice of, an appeal to the Supreme Court of the United States.

FRANK S. APPLEMAN,

*Attorney for Claimant.*

Filed December 9, 1918.

Ordered:

That the above appeal be allowed as prayed for.

December 9, 1918.

By THE COURT.



## Court of Claims.

No. 32767.

GEORGE C. BEIDLER

VS.

THE UNITED STATES.

I, Sam'l A. Putman, Chief Clerk Court of Claims, certify that the foregoing are true transcripts of the pleadings in the above-entitled cause; of the argument and submission of case; of the findings of fact and conclusion of law filed by the court; of the judgment of the court; of the application of the claimant for, and the allowance of, an appeal to the Supreme Court of the United States.

In Testimony Whereof I have hereunto set my hand and affixed the seal of said Court of Claims at Washington City this 12th day of December, A. D., 1918.

[Seal Court of Claims.]

SAMUEL A. PUTMAN,  
*Chief Clerk Court of Claims.*

Endorsed on cover: File No. 26,868. Court of Claims. Term No. 782. George C. Beidler, appellant, vs. The United States. Filed December 20th, 1918. File No. 26,868.



FILED  
JUL 24 1919

JAMES D. MAHER,  
CLERK.

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IN THE  
**Supreme Court of the United States**

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GEORGE C. BEIDLER, *Appellant*,  
*vs.*  
THE UNITED STATES.

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No. 7  260

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APPEAL FROM THE COURT OF CLAIMS.

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MOTION FOR CERTIORARI, OR, IN THE ALTERNATIVE FOR AN ORDER FOR FINDING OF ADDITIONAL FACTS BY COURT OF CLAIMS.

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FRANK S. APPLEMAN,  
*Attorney for Claimant-Appellant.*







IN THE  
**Supreme Court of the United States**

---

GEORGE C. BEIDLER, *Appellant*,  
*vs.*  
THE UNITED STATES.

---

No. 782.

---

APPEAL FROM THE COURT OF CLAIMS.

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MOTION FOR CERTIORARI, OR, IN THE ALTERNATIVE FOR AN ORDER FOR FINDING OF ADDITIONAL FACTS BY COURT OF CLAIMS.

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Now comes George C. Beidler, and respectfully represents:

This is a suit for infringement of a patent for Photographic Record Copying Apparatus.

The petition was filed in the Court of Claims under the provisions of the Act of Congress of June 25, 1910, as follows:



"That whenever an invention described in and covered by a patent of the United States shall be hereafter used by the United States without license of the owner thereof or lawful right to use the same, such owner may recover a reasonable compensation for such use by suit in the Court of Claims: \* \* \* *Provided further*, that in any such suit the United States may avail itself of any and all defences, general and special, which might be pleaded by defendant in an action for infringement, and set forth in Title Sixty of the Revised Statutes or otherwise: \* \* \*

(It is interesting to note that the Court of Claims was, by said Act, given jurisdiction in patent cases similar to the jurisdiction of the United States District Courts. However, on appeals from the District Courts, the evidence, and not merely the findings of fact, is carried to the appellate courts and while the rules of this Court do not provide for like procedure on appeal from the Court of Claims, yet, as by reason of the peculiar questions arising in patent litigation, the evidence may be of vital importance in determining questions of validity and infringement of patents it is suggested, especially in view of the change in the statute by which the jurisdiction of the Court of Claims is assimilated to that of the District Courts that the rules of this Court should not be strictly enforced in patent cases respecting what shall be brought up to this Court by way of record.

This Court, in the De Bange Gas Check case, 224 U. S. 307, indicates the desirability, and even necessity, in a patent case of a full record on the appeal, the opinion saying,

"Infringement is a question of fact and as an aid to its solution courts are furnished usually with an expert comparison of the contending devices, their identity or difference of construction, and modes of operation. *This record is destitute of such testimony.*"



Here the Supreme Court clearly indicates that the expert testimony itself, not mere findings, should appear in the appeal record, and the record in this case, as certified by the Court of Claims, is "destitute of such testimony.")

#### PETITION FOR CERTIORARI.

In view of the peculiar difficulty arising on the facts in a patent suit, it is thought this Court should have the whole record, as made up of the depositions of witnesses before it that was in the Court of Claims. Therefore, it is prayed that a writ of certiorari be issued under the seal of this Court, directed to the Court of Claims, sitting at Washington, D. C., commanding the Court to certify and send to this Court, on a day designated, a full and complete transcript of the record consisting of the depositions of all witnesses given on behalf of both claimant and the defendant, and all exhibits not already certified to this Court, to-wit:

Claimant's Exhibit Bernard Drawing No. 1,

Claimant's Exhibit Bernard Drawing No. 2,

Claimant's Exhibit Patent Office ruling on Pollak & Virag patent,

Claimant's Exhibit Rectigraph Copy of drawing of Beidler patent in suit,

Claimant's Exhibit Schmidt No. 1 (name plate),

Claimant's Exhibit Pamphlet "The Phostat" First Descriptive Pamphlet No. 2,

Claimant's Exhibit Pamphlet "The Photostat" Second Descriptive Pamphlet No. 4,

Claimant's Exhibit Beidler Machine Rectigraph No. 359 S. C.,

Claimant's Exhibit Williamson Prints consisting of twelve prints numbered 1 to 12, and forming collectively one exhibit,



Claimant's Exhibit Greene Patent, being U. S. Patent No. 1,001,020,

Claimant's Exhibit Dey Patent, being U. S. Patent No. 1,057,412,

Claimant's Exhibit Ruggles Cutter Patent, being U. S. Patent No. 19,046,

Claimant's Exhibit Hale Cutter Patent, being U. S. Patent No. 639,231,

Claimant's Exhibit Schmidt Prints from Claimant's Exhibit Beidler Rectigraph No. 359 S. C.,

Claimant's Exhibit Schmidt Prints from Complainant's Exhibit Beidler Rectigraph No. 359 S. C., in answer to Question 12,

Claimant's Exhibit Developed Paper Sheets, Nos. 1 and 2, Claimant's Exhibit Developed Paper Schmidt, Redirect Question 168,

Claimant's Exhibit Longer Rod,

Claimant's Exhibit Lipless Pan,

Claimant's Exhibit Adams 1883 Patent,

Claimant's Exhibit Sheppard 1899 Patent,

Claimant's Exhibit Cartnell 1905 Patent,

Defendant's Exhibit Drawing of model Beidler patented apparatus,

Defendant's Exhibit Certified Copy file wrapper and contents patent in suit,

Defendant's Exhibit Certified Copy file wrapper and contents Beidler reissue patent,

Defendants's Exhibit Gregory, *et al.*, Patent No. 1,127,231,

Defendant's Exhibit First Rectigraph Pamphlet,

Defendant's Exhibit Second Rectigraph Pamphlet,

Defendant's Exhibit Third Rectigraph Pamphlet,

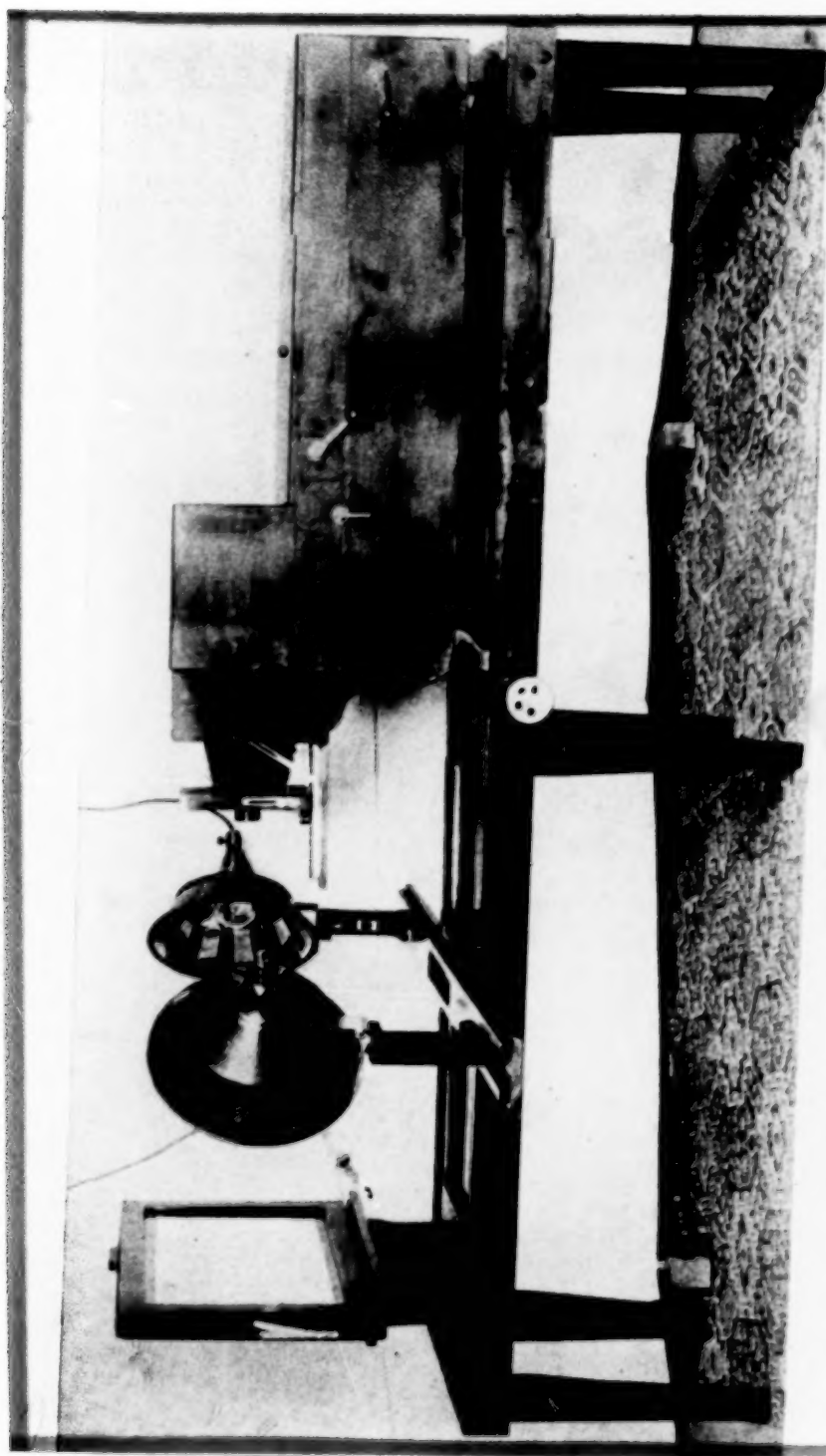
Defendant's Exhibit Waterbury Patent No. 133,394,

Defendant's Exhibit Parker Patent No. 117,106,











Defendant's Exhibit Pollak & Virag Patent No. 688,115,  
 Defendant's Exhibit Beidler Patent No. 810,388,  
 Defendant's Exhibit Parker-Smith marked copy of patent in suit,

Defendant's Exhibit Beidler Reissue Patent No. 12,834,  
 Defendant's Exhibit Godfrey Patent No. 475,552,  
 Defendant's Exhibit Neil Patent No. 157,459,  
 Defendant's Exhibit Ratzell Patent No. 112,380,  
 Defendant's Exhibit Perry Patent No. 420,355,  
 Defendant's Exhibit Dudley Patent No. 740,828,  
 Defendant's Exhibit Developing Slide,  
 Defendant's Exhibit 1a, 2a, 3a, Moller Prints,  
 Defendant's Exhibit 4a, 5a, 6a, Moller Prints,  
 Defendant's Exhibit Certified Copy Beidler U. S. Patent No. 1,157,611,

Defendant's Exhibit Replaced Pin U.

#### ALTERNATIVE MOTION FOR ORDER FOR FINDING OF ADDITIONAL FACTS.

1. One of the points of law involved in this case is, whether a certain machine offered in evidence by claimant (a photograph of which is attached hereto) to prove the operativeness of the invention of claimant's patent in suit, involved, in its construction and operation, any such material departure from what is shown, described and claimed in said patent, as under the proper legal interpretation of said patent, claimant has no right to make. That machine consists of a camera, a film magazine, film-feeding and cutting devices, and developing apparatus, and some idea of its character can be gathered from the attached photograph which, however, shows only the exterior.

2. Said point of law can not be determined without considering that machine itself and comparing it with the draw-



ing, specifications and claims of the patent, and without a complete statement of facts as to the methods pursued in operating that machine. The absolutely vital importance of this is seen from the fact that the Court of Claims found, as a fact, that said machine is operative and was successfully operated, but also found that the machine shown and described in the patent is not operative, and, therefore, the patent is invalid. Accordingly, should the Supreme Court find that said machine in its construction and concededly successful operation, is one built and operated in accordance with the proper legal meaning of the patent, then the finding of invalidity for inoperativeness must be overruled. Obviously, a merely verbal description of a machine, especially one so highly organized, is wholly incapable of conveying an adequate understanding of its construction and mode of operation. In the finding of the Court of Claims there is nothing but a verbal description of the asserted differences, both as to the construction and operation, between that machine and what is shown in the patent drawings, and that description is most meager. Said machine itself is the only means to enable its construction and successful mode of operation to be understood.

3. Another point of law is whether in view of the relation of the invention of the patent to the prior art it was, indeed, a patentable invention, and if so, the patentee is to be accorded liberal or narrow treatment in determining the questions of operativeness and patentable invention. The attitude of the courts to a patent in passing upon the validity and scope of a patent is affected or controlled by a consideration of the effect, in a practical way, that the labors of the inventor have had on the art, the obstacles to be overcome in introducing his invention into use, and the reception it met when first introduced. (*O'Rourke Engi-*



*neering Co. vs. Mullen*, 160 Fed. 933, C. C. A.; *Stillwell vs. McPherson*, 134 C. C. A. 611.)

The record in this case shows that when machines of the same general type (patented by claimant) were first introduced into use (which was by an installation by claimant in the General Land Office of the Interior Department in 1909) such a method of copying records was wholly new in the government bureaus, and the method in use was the primitive, slow, costly and frequently faulty one of hand-copying, by pen or typewriter. The operation of that first machine installed by claimant aroused great interest in government circles and it was the subject of reports to the Secretary of the Interior, and the Efficiency and Economy Commission, appointed by President Taft, and to a sub-committee of the Appropriations Committee of Congress, and committees from the Patent Office and other government bureaus investigated that first installation in the Land Office.

Wherefore, appellant moves that the Court of Claims be directed to make findings of the facts with sufficient fullness to enable this Court to decide the questions of law whether the patent in suit is valid, as for an operative invention; as for a patentable invention over the prior art, and is infringed by the United States, and particularly to find:

(a) Whether the machine referred to as Claimant's Exhibit Beidler Machine Rectigraph No. 359 S. C., is the machine offered in evidence in the Court of Claims, and referred to in its Finding VIII and if so, to certify the same to this Court as part of the Findings of Fact;

(b) Whether claimant did install in the General Land Office of the Interior Department, in the early part of 1909, a photographic copying machine of the general type of the patent in suit and whether at said time, such a method of copying records was new in the bureaus of the



United States Government, and the operation of that machine aroused the interest of the government officials, and was the subject of reports to the Secretary of the Interior, the Efficiency and Economy Commission, inaugurated by President Taft, and to a sub-committee of the Appropriations Committee of Congress, and if committees from the United States Patent Office and other government bureaus investigated the installation in the Land Office, and further, whether the photographic method of copying by apparatus of the Beidler type with a view to installing the same in the various government bureaus, was called in claimant's behalf to the attention of practically every division and bureau of the different departments of the Government in Washington, and if at the time of the installation of said machine by Mr. Beidler in the Land Office, the method of copying records was by hand, either by pen or typewriter.

(c) Whether claimant's Exhibit Beidler Machine Rectigraph No. 359 S. C., operates in the following manner, viz: Before severing the film, and after the rack has been moved rearward to engage the clamps with the paper, and while the paper is gripped by the clamps, the feed rollers D are revolved, and thereby the film is fed down into the developer, curving in the form of a loop, more or less, and, next the knife is operated to sever the film, and finally the rack is reciprocated and moved away from the knife, dragging along with it the now severed and submerged film which trails after it through the liquid.

(d) Whether said machine was successfully operated with a lipless pan, and with a longer rod than that machine was first provided with, and if so, whether such lipless pan is Claimant's Exhibit Lipless Pan and such rod is Claimant's Exhibit Longer Rod, and if so, to certify



said exhibits to this Court as a part of the Findings of Fact.

(e) Whether or not pans or trays for photographic developer liquids provided with inwardly projecting lips are shown in the following patents and if so, to certify copies thereof to this Court as a part of the Findings of Facts:

A. B. Sheppard, No. 639,912, September 26, 1899;  
W. I. Adams, No. 289,951, December 11, 1883, and  
N. Cartnell, No. 686, 266, April 4, 1905.

#### AFFIDAVIT OF COUNSEL.

District of Columbia, ss:

I, Frank S. Appleman, being first duly sworn, depose and say that I am attorney for the appellant, George C. Beidler, and I have read the above motion by me subscribed; that the facts therein stated are true to the best of my knowledge, information and belief, and that in my opinion the findings of the Court of Claims are insufficient to enable this Court to properly pass upon the questions of law arising on this appeal.

FRANK S. APPLEMAN.

Subscribed and sworn to before me this 18th day of July, 1919.

HENRY S. WOOD,

[SEAL]

*Notary Public,*

D. C.

#### BRIEF ON FOREGOING MOTION.

The reasons why paragraphs (a) and (b) are proper are evident and have in part been set forth in the motion.

In support of an affirmative finding as to the matter of



paragraph (b), there is the following *uncontradicted* testimony of Rittenhouse and Schmidt:

Rittenhouse:

"Question 1. Are you acquainted with George C. Beidler, the claimant in this case?

Answer. I am.

Q. 2. Under what circumstances did you become acquainted with him?

A. I became acquainted with him while I was employed at the General Land Office of the Interior Department, while I was in charge of the installation of what might be termed 'modern business methods in the bureau.' I met Mr. Beidler in connection with the installation of photographic process for the copying principally of patent records in the Land Office.

Q. 3. What methods were employed in copying records in the Land Office prior to your meeting Mr. Beidler?

A. All the records were copied by hand—that is, either pen copying or typewriting—a rather laborious process in view of the large number of records or copies that were made.

Q. 4. What method of copying land records or land patents was employed in the Land Office after you met Mr. Beidler?

A. Being in charge of the work, as above referred to, I recommended to the Commission of the Land Office in the early part of 1909 the purchase or installation of the photographic process for the making of such certified copies as were requested of the bureau and this method was adopted—the process of Mr. Beidler.

Q. 5. In your last answer you referred to a process. Will you state of what the process consisted?

A. The method that the Land Office adopted was one furnished by Mr. Beidler to the bureau and consisted of photographing a record and the machine turning out the developed print ready to be washed and



dried when it was complete. The technical operation of the machine, of course, I am not familiar with but the whole process seemed to be automatic after the exposure was made of the record desired to be copied and the machine turned out a fully developed print. A roll of paper was used and each print was automatically cut off by the machine. The print, as I recall it, was white on a dark background, or rather, it might be called a printed negative, rather than a positive print; that is, the record copied showed the writing in the finished print and the white part of the sheet dark.

Q. 6. You say that this machine was installed in the early part of 1909. Can you state how long it was used by the Land Office?

A. The machine was installed in the early part of 1909, and Mr. Beidler and Mr. Schmidt were present at the time and instructed the employees as to its use and operation, and, so far as I know, the machine is still in operation at the present time. I saw the machine in operation only a few months ago. It was in constant use from the time it was first installed.

Q. 7. Do you know whether or not reports were made of the operation of the machine about which you have testified?

A. Yes; reports were made to the Secretary of the Interior personally and in writing and the Commissioner of the Land Office included a reference to the process in his annual report for the fiscal year ended June 30, 1909. Other reports were made to the Efficiency and Economy Commission inaugurated by President Taft, and reports were also made to Appropriations Committee of Congress, or rather a subcommittee of the Appropriations Committee. These reports were made shortly after the machine was installed.

Q. 8. Do you know Mr. Woolard, chief clerk of the Patent Office?

A. I do.

Q. 9. Do you know whether or not Mr. Woolard



or any official of the Patent Office knew of the photographing and developing apparatus about which you have testified?

(Mr. Pumphrey: Objected to as calling for hearsay evidence. If Mr. Woolard's knowledge of the matter inquired about is important to the case in the opinion of claimant's counsel, the proper method of developing this point is to call upon Mr. Woolard and have him testify.)

A. Shortly after the machine was installed, there was a committee from the Patent Office and various other bureaus at the Land Office to investigate the process and determine its feasibility for adoption in these other bureaus, as I was given to understand at the time. It appeared to be something new in government work, and the adoption by the Land Office seemed to interest quite a number of bureaus of other departments."

Schmidt:

"Question 4. Are you acquainted with Mr. Woolard, who is chief clerk of the Patent Office of the United States?

Answer. I am.

Q. 5. State when and under what conditions you became acquainted with him?

A. I became acquainted with Mr. Woolard about April, 1909, at which time I was endeavoring to install photographing and developing apparatus made under the Beidler patents and inventions with the Patent Office of the United States.

Q. 6. Will you state in a general way of what those endeavors consisted, and state what was done by you in endeavoring to have the United States install photographing and developing apparatus, about which you have testified?

A. During April, 1909, I installed photographing and developing apparatus in the United States Land



Office in Washington. At the same time I endeavored to interest the other divisions, bureaus, and departments of the United States Government in the installation of the same apparatus. I called upon Mr. Woolard as chief clerk of the Patent Office and endeavored to show him where the machine could be useful to his bureau. I made copies of two different files for Mr. Woolard, and also demonstrated the photographing and developing apparatus to him on at least two different occasions. The apparatus was also demonstrated to Mr. Moore, the then Commissioner of Patents, and Mr. Tennant, the then Assistant Commissioner of Patents, all of whom were very much interested in the apparatus shown, and I confidently expected to install apparatus, which was manufactured under the Beidler patents and inventions, in the Patent Office, and was practically assured that in the event that sufficient use for such apparatus could be found that such installation would be made.

I also called on the Department of Justice, and they were contemplating the installation of the same photographing and developing apparatus.

In the Department of Agriculture the installation of the same photographing and developing apparatus was considered, and there such installation was decided upon by Mr. Carroll, the chief clerk in the Animal Bureau, but the installation was prevented by Mr. McCabe, the then Solicitor of the Department of Agriculture, he not being willing that the Department of Agriculture install such apparatus under the same contract upon which the apparatus had been installed in the General Land Office of the Department of the Interior. The same photographing and developing apparatus was called to the attention of Secretary Wilson, Secretary of Agriculture at that time. I also called upon the War Department, and they were considering the installation of the same photographing and developing apparatus for the purpose of making copies of some of the old muster rolls. Mr. Harper, who, I believe, was then Auditor of the War Department, and



Mr. Gongwer, who afterwards become Auditor of the War Department, was very much interested in this proposition, and I made photographic copies of some of the old muster rolls upon the Beidler apparatus, and we returned the sample copies to the War Department through Mr. M. O. Chance, secretary of the Economy and Efficiency Commission. Both Mr. Gongwer and Mr. Chance had been contemplating a trip to Rochester, N. Y., in order to see the operation of the Beidler photographing and developing apparatus upon these muster rolls, but they later decided to send the rolls to Rochester for copying and did not make the trip.

I also called on the Pension Bureau and interested Mr. Stauffer, the chief clerk, in these same photographing and developing apparatus; also upon the Bureau of Indian affairs and interested Mr. Hawke, chief clerk, in the same apparatus.

Mr. Boyd, chief clerk of the Library of Congress, was considering the installation of photographing and developing apparatus made under the Beidler inventions, but I understand that the installation of this apparatus was prevented by the objection of Mr. Green, the superintendent, to the contract under which installations of the Beidler apparatus were being made. During 1910 a demonstration of the Beidler apparatus was made by invitation of the Economy and Efficiency Commission at the Treasury Department. Another demonstration of the Beidler apparatus was made by invitation of the Economy and Efficiency Commission during 1911 at the office-appliance exhibition held in the G Street post-office building. There were also numerous demonstrations made at various times, using the Beidler apparatus which had previously been installed at the General Land Office for that purpose.

During the time which has elapsed since the installation of the Beidler apparatus in the General Land Office, in 1909, until the present date I have called upon practically every division and bureau of the different departments of the Government in Washington a number of times in an endeavor to install the Beidler apparatus for their work.



Q. 7. When did you first hear of the use of photostats by the Government? [Note. Photostat is the trade name of the infringing machine used by the United States.]

A. The first photostat I know of as being in use by the United States Government, I believe, was during July, 1911, when I saw the photostat in operation at the navy yard.

Q. 8. Can you fix the dates on which you endeavored to install the photographing and developing apparatus to which you referred in your answer to question 6 with relation to July, 1911; that is to say, were your efforts prior to that date? Kindly state approximately the dates when you were in Washington.

A. I was here many times prior to July, 1911, endeavoring to install the Beidler apparatus with the various departments, but I can not be positive as to the dates.

Q. 9. Are you acquainted with any of the members of the Commission on Economy and Efficiency, and, if so, state their names; whose names appear in Senate Document No. 293, Sixty-second Congress, second session, which I now show you?

A. The only one with whom I am really acquainted is Mr. M. O. Chance, the secretary of the commission.

Q. 10. Do you know whether or not he was secretary of the commission or was connected with it when you made the demonstrations in 1910 as testified in your answer to question 6?

A. I am not positive that Mr. Chance was secretary of the commission at that time. I believe he was Auditor for the Post Office Department, and at least acting as secretary of the commission at the time the Beidler apparatus was demonstrated at the Treasury Department in 1910.

Q. 11. Do you know whether or not he had anything to do with that exhibit?

A. The invitation which we received from the commission was sent out over Mr. Chance's signature.

Q. 12. Can you state whether or not this same M. O.



Chance had anything to do with the exhibit which you refer to in answer to question 6, as having been held in the G Street post office in 1911?

A. This same Mr. M. O. Chance, as secretary of the Economy and Efficiency Commission, again invited us to demonstrate the Beidler apparatus at the exhibit held in the G Street post office in 1911.

It is, of course, unnecessary to cite authority for the proposition that this Court, even in the strictest application of the rule as to what constitutes findings of fact, has power to relieve against the refusal or neglect of the Court of Claims to make a finding one way or the other, as to a matter established by uncontradicted evidence such as that of Rittenhouse and Schmidt, quoted above. In the admiralty case of *Alexander vs. Machan*, 147 U. S. 87, this Court said:

"If the Court below neglects or refuses to make a finding, one way or the other, as to the existence of a material fact which has been established by uncontradicted evidence, or if it finds such a fact when not supported by any evidence whatever, and an exception be taken, the question may be brought up for review in that particular."

The matter of paragraph (b) is also important on the question of operativeness and showing claimant to be an old and experienced inventor and manufacturer of machines of the type under consideration. It, therefore, would be incredible that a man so equipped would produce, as the Court of Claims has held, a machine incapable of use. On a remarkably similar state of facts, the Court of Appeals (Taft, Lurton and Severens) in *McCormick vs. Aultman*, 69 Fed., at page 378, said:



"It is difficult to believe that a man of Gorham's inventive genius did not perceive the useful functions which the parts of his machine so well performed, even though he did not specifically mention them all."

The matter of paragraphs (d) and (e) is material because it shows that in respect of the lip on the pan and the length of the original rod of the machine (paragraph (a)) these, even if changed from the patent disclosure (which they were not) were not necessary to the successful operation of the machines; and the testimony of Schmidt on these points is *uncontradicted*. (*Alexander vs. Machan, supra.*) He said:

"Q. 5. In connection with Mr. A. Parker Smith's answer to cross-question 62 I will ask you to substitute for the developer pan having the inwardly projecting lip in claimant's Exhibit Beidler Machine Rectigraph No. 359 S. C., a pan exactly like it for the developer liquid, but which has no inwardly projecting overhanging lip from its end wall, and place such pan without an inwardly projecting lip so that its end wall toward the cutting knife will be in the position corresponding to the position in which such wall of the developer pan is shown in the drawing of the Beidler patent in suit and shift the lever R a corresponding distance and substitute for the connecting rod now in the machine this longer rod, which is marked with the title of the case and as claimant's Exhibit "Longer Rod," then please operate the exhibit machine with these changes and with water in the pan, using the paper—that is, the sensitized paper—now in the machine.

(Mr. Workman: Objected to as beyond the limits of the Court's permission to claimant to take further testimony, such testimony being confined to the exhibit machine as it was then intro-



duced in evidence. The witness is now asked to testify concerning what is practically a different machine, with the parts materially changed and the lever R changed from its relative position in the patent to another and different position.)

A. I have substituted a pan without the inwardly projecting lip and have also substituted a longer connecting rod, shifting the lever R a corresponding distance to the rear of the machine, the pan without the inwardly projecting lip having its front edge 2 inches away from the knives toward the rear of the Beidler exhibit machine. I have cut off and submerged eight sheets of paper in the water, which is in the developer tray, these sheets being of various lengths, the longest of which being approximately 11 7-8 inches in length.

Q. 6. Did you at the request of Mr. A. Parker Smith, defendant's expert, who has been present during your examination, make and submerge one sheet longer than the others? If, so, what was the length of that sheet?

A. I did. The length of that sheet was approximately 11 7-8 inches; but this sheet was made about one-quarter of an inch longer even than I was requested to make it.

(Mr. Workman: I desire it to be understood that my last objection applies to all questions subsequent thereto, as well as to all regarding the changed condition of claimant's Exhibit Model Rectigraph 359.)

Q. 7. Why did you make the sheet longer than requested by Mr. A. Parker Smith?

A. I merely did this to demonstrate that it was possible to cut sheets of various lengths, and even longer than the machine was originally constructed to cut; and that it was practicable to entirely submerge these different lengths in the fluid in the developing pan; and also to demonstrate that the absence of the overhanging lip had no effect at all in so far as the successful submergence of the print was concerned."



The matter of paragraph (e) is material as showing that in using a lip on the original pan, claimant but followed the practice in the art which he had a legal right to do, even if his patent said nothing on the subject, since the prior art is a part of every patent.

Respectfully submitted,

FRANK S. APPLEMAN,  
*Attorney for Claimant-Appellant.*

#### APPENDIX.

For the information of the Supreme Court the following extracts are made from appellant's motion in the Court of Claims for a new trial and amended and additional Findings of Fact, which motion was denied.

#### MOTION FOR A NEW TRIAL AND AMENDED FINDINGS OF FACT.

##### I.

Claimant moves for a new trial upon the following grounds:

Error in fact findings VIII and IX, that Claimant's Exhibit, Beidler Machine Rectigraph No. 359 S. C., in any material or substantial respect, departed from the disclosure of the patent in suit; that it was a departure from the teachings or disclosure of that patent to use a developer tray with an inwardly projecting lip, and that the use of such tray with a lip was necessary to successful submergence of the exposed film; and that the method of operation of said machine, which was successful, was a new one evolved after the issue of the patent and not within the contemplation of the patent.



## II.

Error in fact in not finding that one skilled in the art would know from the disclosure of the patent how to successfully operate the machine to produce the intended results of photographically copying writings and other documents.

## III.

Error in law in finding that the patent in suit is invalid and not infringed by the United States.

## IV.

Error in law in not rendering a judgment that the patent is valid and infringed.

Respectfully,

FRANK S. APPLEMAN,  
*Attorney for Claimant.*

CLAIMANT'S BRIEF ON MOTION FOR NEW TRIAL AND  
REQUEST FOR AMENDED AND ADDITIONAL  
FINDINGS OF FACT.

Comes now the claimant, by his attorney, and moves that the Findings of Fact be amended.

3. In saying that what is referred to in Finding VIII as "this changed method of operation" required the location of the operating pin U and the developer tray I to be materially changed from the disclosure of the patent, in order to prevent repeated operation of the feed pawl S, error was made, first, because nowhere in the patent is it said that any precise location of the pin U and tray I is required; and second, the uncontradicted testimony of Schmidt, Q. 5, p. 411, and the operation of said machine in the presence of Government Counsel and patent expert shows that with pan I exactly in the position shown in the patent drawing



and with the lever R shifted a corresponding distance to place it in substantially the exact location shown in the patent drawing, the machine operates with perfect success. Of course, when the lever R was thus shifted rearward, a longer rod or pawl S (Claimant's Exhibit Longer Rod) than in the original exhibit machine, was required to reach the longer distance between the ratchet wheel T and the lever R, but that did not make a different construction from what is disclosed in the patent, for the form of these parts and their actions and functions continued to be those disclosed in the patent.

4. In the last sentence in Finding VIII it is said the operative machine had a tray with an inwardly projecting lip, and that lip was for the purpose of facilitating the submerging of the film. The *uncontradicted* testimony of Schmidt, Qs. 5 to 7, p. 411, shows that no such lip is necessary, and as "Claimant's Exhibit Lipless Pan" is as much a part of the machine as the pan with a lip, there should be no such finding as to the necessity for a pan with an inwardly projecting lip; nor with any lip at all, and as it was old in the art to employ pans with lips to prevent splash, the finding should include a reference to such fact so as to show that claimant in using such a lip in his first pan merely followed the well-known practice in the art (p. 421).

It is, therefore, asked that for the last paragraph of Finding 8, the following be substituted:

An operative machine has been introduced in evidence by claimant, as an exhibit in this case, and said machine has been successfully operated in the production of the intended results of photographically copying writings upon film and developing the film. Said Exhibit machine was successfully used when provided with either of two developer trays, that is, one without an inwardly projecting lip at the end next to the knife O, and one with such an inwardly pro-



jecting lip as was common in the art long prior to claimant's patent, so that the presence or absence of such lip was immaterial to the successful submergence of the film in the developing liquid in the tray. Pans or trays provided with inwardly projecting lips are shown in the following patents which are made a part of this finding: A. B. Sheppard, No. 639,912, September 26, 1899; W. I. Adams, No. 289,951, December 11, 1883; N. Cartnell, No. 686,266, April 4, 1905.

Said Exhibit machine, which is marked "Claimant's Exhibit Beidler Machine Rectigraph No. 359 S. C.," and its two trays, one of which is marked "Claimant's Exhibit Lipless Pan," are made a part of this Finding. Such machine was made by one skilled in the art, from information furnished alone by the specifications and drawings of the Beidler patent in suit, and one so skilled and from such information successfully operated such machine, including the submergence of the film in the developer liquid by each of the following ways:

First: After the film has been exposed and severed, the severed end falls on or into the developer and the rack, by means of the crank, is reciprocated back and forth in a range of a few inches, until by its repeated reverse action, operating against the resistance of the submerged or free end of the film, the film is rolled over and submerged in the developer. In performing this operation the rack must not be moved far enough in the outward direction to cause the pin U to strike and actuate the lever R, and this is possible because the range of a few inches in reciprocation even with the lever R located as shown in the drawing of the Beidler patent, leaves abundant space for such movement of the pin U. The specification of the patent does not require that the lever R shall have any particular location beyond that it shall have such a position as to be struck by the pin U at



some point in the rearward travel of the rack. Second: Before severing the film, and after the rack has been moved to engage the clamps with the paper and while the paper is gripped by the clamps, the feed rollers D are revolved and thereby the film is fed down into the developer, curving in the form of a loop, more or less, and next the knife is operated to sever the film, and finally the rack is reciprocated and moved away from the knife, dragging with it the now severed and submerged film, which trails after it through the liquid.

Finding IX is open to the following objections:

1. The same objection is applicable to this finding in its use of the expression "mode of operation contemplated and disclosed by the patent," as to the similar expression in Finding VIII.

2. Finding IX is objectionable in saying that the admittedly successful method of operation is a "new oscillating mode of operation evolved by the claimant," first, because there is no proof that it is new in the sense evidently intended, viz: That it was subsequent to the patent, and is not disclosed by the patent, for by the uncontradicted testimony of Schmidt, who qualifies as one skilled in the art, with his knowledge as one skilled in the art, he knew from the patent alone how to operate the machine by the method referred to, and, second, because the expression "oscillating" is misleading as implying a swinging motion of the rack.

3. Finding IX is objectionable in saying structural changes were necessary in respect to the location of the pin U, the developer tray I, and the length of the feeding pawl R for the reasons above given in discussing Finding VIII.

We, therefore, ask that Finding IX be omitted altogether.



## PROPOSED ADDITIONAL FINDINGS.

We move the Court to insert the following additional findings:

## IX.

Photographic copying machines made under claimant's patents are known by the trade name "Rectigraph," and machines have been placed upon the market and put in use having the characteristics of construction and operation of the machine of the patent in suit (Defendant's witness Miller, X-Qs. 161 to 163, p. 306).

## X.

At the time of the installation in the General Land Office of the Interior Department, in the early part of 1909 by the claimant, Mr. Beidler, of a photographic copying machine of the type of the patent in suit, such a method of copying records was new in the bureaus of the United States Government, and the operation of that machine aroused the interest of the government officials, and it was the subject of reports to the Secretary of the Interior, the Efficiency and Economy Commission, inaugurated by President Taft, and to a sub-committee of the Appropriations Committee of Congress and Committees from the United States Patent Office and other Land Office Bureaus investigated the installation in the Land Office. The photographic method of copying by apparatus of the Beidler type with a view to installing the same in the various government bureaus, was called in claimant's behalf to the attention of practically every division and bureau of the different departments of the Government in Washington. At the time of the installation of said machine by Mr. Beidler in the Land Office the method of copying records was by hand, either by pen or typewriting. (Rittenhouse, Qs. 1 to 9, pp. 8 and 9, and Schmidt, Qs. 4 to 12, pp. 10 to 12.)



**In the Supreme Court of the United States.**

OCTOBER TERM, 1919.

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GEORGE C. BEIDLER, appellant,

v.

THE UNITED STATES.

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No. 260.

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*APPEAL FROM THE COURT OF CLAIMS.*

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**BRIEF FOR THE UNITED STATES IN OPPOSITION TO  
APPELLANT'S "MOTION FOR CERTIORARI, OR, IN  
THE ALTERNATIVE, FOR AN ORDER FOR FINDING  
OF ADDITIONAL FACTS BY COURT OF CLAIMS."**

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**STATEMENT.**

This case is in this court on appeal from the judgment of the Court of Claims denying appellant's claim against the United States for alleged infringement of a certain patent for an improvement in photographing and developing apparatus on account of the use by the United States Government of photo-copying machines of a type known as the photostat, said machines having been purchased by the United States in the regular course of commerce



and trade. The Court of Claims concluded that the appellant's patent had not been infringed by the United States; that said patent is invalid, and entered judgment dismissing his petition. Its conclusion of law and judgment were predicated on the facts in the case as found by it, set forth on pages 4 to 28, inclusive, of the printed record.

Appellant's motion is unusual in form; in substance it is for a writ of certiorari, or, in the alternative, for an additional and different finding of facts by the Court of Claims. The motion should be disallowed for the reasons:

I. The rules of this court provide for the record on appeal from the Court of Claims and preclude the certification of evidence or exhibits.

II. The additional findings of facts requested in the alternative motion are either immaterial or contradictory to facts as found by the Court of Claims.

### **ARGUMENT.**

#### **I.**

Appellant moves first—

That a writ of certiorari be issued under the seal of this court, directed to the Court of Claims, sitting at Washington, D. C., commanding the court to certify and send to this court, on a day designated, a full and complete transcript of the record consisting of the depositions of all witnesses given on behalf of both claimant and the defendant, and all exhibits not already certified to this court, to wit \* \* \*.



Under the present rules of this court governing appeals from the Court of Claims there is no authority for the action requested. Rule I, made by virtue of the power given by section 243 of the Judicial Code, seems to have been made for the express purpose of preventing what appellant asks (*United States v. Adams*, 6 Wall., 101 at 110). It is well established that certiorari does not lie at all to the Court of Claims, even for a part of the evidence or for additional findings. *United States v. Adams*, 9 Wall., 661, and many other cases, unnecessary to cite. If patent cases possess inherent peculiarities which call for the abrogation of this firmly established rule no showing to this effect is made in appellant's brief.

## II.

Disregarding the form of appellant's alternative motion, it is assumed that it was meant as a request for an order remanding the case to the Court of Claims for additional findings. The particular findings requested are set forth in paragraphs (a), (b), (c), (d), and (e), beginning on page 7 of appellant's brief.

Of these in their order:

(a) This paragraph shows no materiality of the finding requested; but what is really desired by appellant is that his exhibit machine itself be certified to this court. (See pars. 1 and 2 of his alternative motion, beginning on p. 5 of the brief.) This, of course, can not be done. (*United States v. Anciens Etablissements*, 224 U. S., 309.)



There can be no necessity for a further finding to identify the machine, as Finding VIII (R. p. 27) of the Court of Claims expressly recites.

"An operative machine, claimed by the plaintiff to be the machine of his patent in suit, has been introduced in evidence by the plaintiff as an exhibit in the case \* \* \*."

As only one machine was introduced in evidence there can be no reason for further identification. The finding of the court (VIII) as to this exhibit machine is clear; it is found—

"\* \* \* but to the extent that this machine is shown to have been successfully operated in the production of intended results, it has been operated, in the developing of the film, after a different method than that disclosed in the patent in this \* \* \*"

Appellant now desires this court to compel the Court of Claims to change this finding and to certify the machine to this court. This can not be done (*United States v. Adams*, 9 Wall., 661).

(b) The several findings requested in this paragraph are all clearly immaterial on the question of infringement. In addition, the first part of this request for findings is negated by Finding VIII of the Court of Claims.

(c) The Court of Claims in Finding VIII found the operations or movements of the machine introduced in evidence by the appellant. Appellant now asks for an entirely different finding as to this. This court will not direct the Court of Claims as to what finding it shall make (*United States v. Adams*, 9 Wall., 661).



(d) This request is not proper for the reasons stated as to paragraph (b). The suggested finding would be contradictory to Findings VIII and IX as made by the Court of Claims. This paragraph again requests the certification of exhibits.

(e) This paragraph is objected to for the same reasons. In addition, it will be noted that the "lipless pan" and "longer rod" referred to in paragraphs (d) and (e) were changes made in the exhibit machine after it was introduced in evidence, operated and testified to by plaintiff's witnesses, and as so changed it did not represent the invention disclosed in the patent sued upon, and this is in fact found by the Court of Claims. Furthermore, there is no showing whatever as to the materiality of the finding requested.

Careful consideration of the whole motion shows that plaintiff has not pointed out any material fact supported by evidence which the Court of Claims has failed or refused to find.

For the foregoing reasons, it is submitted that appellant's motion should be denied.

ALEX. C. KING,  
*Solicitor General.*

FRANK DAVIS, JR.,  
*Assistant Attorney General.*

HENRY C. WORKMAN,  
*Attorney.*